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BULLETIN No. 10

California Irrigation District Laws

1925

COMPILED BY
LEGISLATIVE COUNSEL BUREAU



CALIFORNIA STATE PRINTING OFFICE
JOHN E. KING, State Printer
SACRAMENTO, 1925

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INTRODUCTION.

The rapid expansion of the irrigated area in California which has occurred during the past decade, has largely been through the organization of irrigation districts under the state law commonly known as the "Wright Act." The Wright Act was originally passed in 1887. Each succeeding legislature passed amendments of more or less importance, but the fundamental objections to this act were not corrected until 1897. Under the legislative leadership of Judge E. A. Bridgford, a new act was passed which did not alter the essential purport of the law and in many of its provisions was but a slight revision in verbiage of the original act. However, radical changes made in the procedure for organizing the districts and in incurring indebtedness, had the effect of stopping the organization of new districts.

Many amendments and supplementary acts have been passed to the Bridgford Act by legislatures since 1901 and particularly since 1909. The more essential changes have been as follows:

1. Requiring petitions for the formation of irrigation districts to be referred by the board of supervisors of counties, to the state engineer for report, and giving the state engineer ninety days in which to "report, make or cause to be made such preliminary investigations as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken."
2. Creating an irrigation district bond commission, composed of the state engineer, state superintendent of banks, and the attorney general of the state, which, prior to bond elections, must pass on proposed bond issues, and which may certify bonds that have been voted in whole or in part, so as to make them legal investments for funds of banks, insurance and trust companies, trusts and state school funds, and so as to permit them to be used as security for the performance of any act the same as bonds of cities, counties, school districts or municipalities.
3. Permitting the organization of districts to be proposed by 500 petitioners, each petitioner, to the number of at least 500, to be an elector residing in the proposed district or the holder of title or evidence of title to land therein.
4. Reducing the number of votes necessary to carry the organization of an irrigation district from two-thirds to a majority of all votes cast.
5. Permitting boards of directors of districts to call bond elections to cover expenditures, approved by the irrigation district bond commission, without petition of the landowners, as necessary from 1897 to 1919, but requiring a two-thirds instead of a majority vote to carry such elections.

There are now seven active irrigation districts that were organized prior to 1897 but none originated during the years 1897 to 1909. Beginning in 1909, districts have been organized at an increasingly rapid rate until at present there are one hundred and seven districts in

California, comprising a total area of 4,129,000 acres. This is about two-thirds of the entire area under irrigation in California. The great bulk of this development has occurred since inclusions have been made in the law for state supervision in the organization of the districts and in financing and constructing their projects.

With the near completion of all the simpler projects whose works consist for the most part of diversion dams and distribution canals, necessity has arisen for the organization of large areas in single enterprises that overlap areas already organized in irrigation districts. The "Water Storage District Act" of 1921, and the "Water Conservation District Act" of 1923 have resulted.

Active Irrigation Districts as of June 30, 1925.

Name of district.	County	Year organized	Area acres	Bonds voted	Address of secretary.
Alpaugh.	Tulare.	1915	8,069	\$283,000	Alpaugh.
Alta.	Tulare-Fresno-Kings.	1888	129,300	500,000	Dinuba.
Anderson-Cottonwood.	Shasta.	1914	31,409	1,255,000	Anderaon.
Banta-Carbona*.	San Joaquin.	1921	14,135	705,000	Tracy.
Baxter Creek.	Lassen.	1917	8,905	511,000	Susanville.
Beaumont.	Riverside.	1919	3,161	230,000	Beaumont.
Brentwood.	Contra Costa.	1923	7,904	514,000	Brentwood.
Brown's Valley.	Yuba.	1888	42,860	140,000	Brown's Valley.
Butte Valley.	Siskiyou.	1920	28,665	594,000	Macdoel.
Byron Bethany.	Contra Costa-San Joaquin.	1919	17,175	650,000	Byron.
Camp Far West.	Placer-Yuba.	1924	4,102	-----	Wheatland.
Carmichael.	Sacramento.	1916	3,006	90,000	Sacramento.
Citrus Heights.	Sacramento.	1920	3,028	262,000	Fairoaks.
Compton-Delevan.	Colusa.	1920	12,652	575,000	Willows.
Consolidated.	Fresno-Kings-Tulare.	1921	155,000	850,000	Selma.
Corcoran.	Kings.	1919	51,533	760,000	Corcoran.
Cordua.	Yuba.	1919	5,467	267,000	Marysville.
Crescent.	Fresno-Kings.	1924	11,627	-----	Fresno.
Fair Oaks.	Sacramento.	1917	4,000	200,000	Fair Oaks.
Foothill.	Fresno-Tulare.	1920	58,000	-----	Orosoi.
Fresno.	Fresno.	1920	242,000	2,000,000	Fresno.
Glenn-Colusa.	Glenn-Colusa.	1924	117,000	3,240,150	Willows.
Grenada.	Siskiyou.	1921	5,055	240,000	Grenada.
Happy Valley.	Shasta.	1891	18,428	765,000	Olinda.
Hollister.	San Benito.	1923	30,000	-----	Hollister.
Hot Spring Valley.	Modoc.	1919	9,640	160,000	Alturas.
Imperial.	Imperial.	1911	603,840	16,000,000	El Centro.
Island No. 3.	Kings.	1921	4,500	-----	Laton.
Jacinto.	Glenn.	1917	11,463	238,000	Glenn.
James.	Fresno.	1920	26,952	1,000,000	San Joaquin.
Knightsen.	Contra Costa.	1920	10,001	650,000	Knightsen.
La Canada.	Los Angeles.	1924	1,400	-----	Corcoran.
Laguna.	Fresno-Kings.	1920	37,000	265,000	Lakeside.
Lakeland.	Kings.	1923	26,135	-----	Corcoran.
Lakeside.	San Diego.	1924	332	-----	Lakeside.
La Mesa, Lemon Grove and Spring Valley.	San Diego.	1913	14,243	2,500,000	La Mesa.
Lemoore.	Kings.	1920	52,300	-----	Lemoore.
Lindsay-Strathmore.	Tulare.	1915	15,285	1,650,000	Lindsay.
Little Rock Creek.	Los Angeles.	1892	3,073	308,000	Little Rock.
Littlerock-Midland.	Los Angeles.	1925	2,475	-----	Palmdale.
Lone Tree.	Contra Costa.	1920	2,095	160,000	Brentwood.
Lucerne.	Kings.	1925	33,407	-----	Hanford.
Madera.	Madera.	1920	353,000	28,000,000	Madera.
Maxwell.	Colusa.	1918	8,832	260,000	Colusa.
Merced.	Merced.	1919	181,920	15,250,000	Merced.
Modesto.	Stanislaus.	1887	81,183	4,902,511	Modesto.
Mojave River.	San Bernardino.	1917	27,665	5,600,000	Box 396, Los Angeles
Montague.	Siskiyou.	1925	27,000	-----	Montague.
Naglee-Burk.	San Joaquin.	1920	3,346	200,000	Tracy.
Nevada.	Nevada.	1921	209,610	-----	Grass Valley.
Newport Heights.	Orange.	1818	1,503	160,000	Costa Mesa.
Newport Mesa.	Orange.	1918	694	50,000	Costa Mesa.
Oakdale.	Stanislaus-San Joaquin.	1909	74,246	2,575,000	Oakdale.
Oroville-Wyandotte.	Bute.	1919	24,000	2,000,000	Oroville.
Owens Valley.	Inyo.	1923	53,680	1,650,000	Bishop.
Palmdale.	Los Angeles.	1916	4,756	445,000	Palmdale.
Paradise.	Bute.	1916	11,250	490,000	Paradise.
Potter Valley.	Mendocino.	1924	4,905	-----	Potter Valley.
Princeton-Codora, Glenn.	Glenn-Colusa.	1916	13,861	175,000	Princeton.
Provident.	Glenn-Colusa.	1918	22,861	1,190,000	Willows.
Red Rock Creek*.	Lassen.	1918	18,349	-----	Stacy.
Riverdale*.	Fresno.	1920	16,000	123,000	Riverdale.
Round Valley.	Inyo-Mono.	1923	6,896	-----	Bishop.
San Dieguito.	San Diego.	1922	3,700	400,000	Cardiff-by-the-Sea.
Santa Fe.	San Diego.	1923	8,952	700,000	Del Mar.
San Ysidro.	San Diego.	1911	492	25,000	San Ysidro.
Scott Valley.	Siskiyou.	1917	5,131	125,000	Fort Jones.
South Capay.	Glenn.	1921	1,486	-----	Orland.
South Montebello.	Los Angeles.	1922	901	125,000	Montebello.
South San Joaquin.	San Joaquin.	1909	71,112	4,885,000	Manteca.
Stinson.	Fresno.	1921	11,009	360,000	Fresno.
Table Mountain.	Bute.	1922	2,036	125,000	Oroville.
Terra Bella.	Tulare.	1915	12,285	1,000,000	Terra Bella.

*Formed without approval of State Engineer.

†Glenn-Colusa and Williams combined in 1924.

ACTIVE IRRIGATION DISTRICTS AS OF JUNE 30, 1925—Continued.

Name of district.	County	Year organized	Area acres	Bonds voted	Address of secretary.
Thermalito	Butte	1922	3,100	\$270,000	Oroville.
Tia Juana	San Diego	1924	1,000	-----	National City.
Tracy Clover	San Joaquin	1922	1,107	52,170	Tracy.
Tranquility	Fresno	1918	11,300	260,000	Tranquility.
Tulare	Tulare	1889	35,360	500,000	Tulare.
Tule	Lassen	1920	13,861	806,000	Susanville.
Turlock	Stanislaus-Merced	1887	178,790	7,270,000	Turlock.
Vandalia	Tulare	1923	1,290	210,000	Porterville.
Vista	San Diego	1923	18,128	1,700,000	Vista.
Walnut	Los Angeles	1893	869	-----	Rivera.
Waterford	Stanislaus	1913	14,110	670,000	Waterford.
West Side	San Joaquin	1915	11,792	545,000	Tracy.
Woodbridge	San Joaquin	1924	11,000	-----	Stockton.
			3,434,992	\$120,660,831 640,000	Browns Valley and Tulare.
				\$120,020,831	Exclusive Tulare and Browns Valley.

Browns Valley paid off bonds at 30 cents.

Tulare bought up bonds at 53 cents in 1903 and burned them.

In addition to the above, a number of other districts have proceeded to organize but for various causes have been unable to function. But one of these proceeded as far as submitting to the voters the matter of bonding—Crooks Canyon.

INACTIVE IRRIGATION DISTRICTS AS OF JUNE 30, 1925.

Name of district.	County	Year organized	Area acres	Bonds voted	Address of secretary.
Baker	Glenn	1922	1,280	-----	Butte City.
Crooks Canyon*	Modoc	1919	6,030	\$80,000	Alturas.
El Camino*	Tehama	1921	7,556	-----	Proberta.
El Solyo*	Stanislaus	1921	3,783	-----	74 Montgomery st., San Francisco.
Fall River Valley	Shasta	1922	12,820	-----	Glenburn.
Feather River	Sutter	1920	3,027	-----	Nicholaus.
Fullerton	Orange	1919	2,700	-----	Fullerton.
Hemet-Yuba	Yuba-Butte	1919	31,442	-----	Marysville.
Honey Lake Valley*	Lassen	1916	33,150	-----	Stacy.
Kasson	San Joaquin	1921	5,986	-----	Tracy.
Klamath-Shasta Valley†	Siskiyou	1921	287,000	-----	Montague.
Ladera*	Riverside	1922	3,849	-----	LeGrand.
Medano	Madera-Merced	1921	13,560	-----	Fresno.
Mendota*	Fresno	1921	70,146	-----	Constantia.
Southern Lassen*	Lassen	1915	21,500	-----	Stratford.
Stratford	Kings	1916	(9,200)	Included in Lemoore	-----
Suisun*	Solano	1921	41,075	-----	Fairfield.
Surprise Valley*	Modoc	1918	17,600	-----	Fort Bidwell.
Victor Valley	San Bernardino	1917	71,517	-----	Victorville.
Webster	Madera	1916	15,000	-----	Madera.
West Stanislaus*	Stanislaus-Merced	1920	35,681	-----	Crows Landing.
21			693,952	\$80,000	

*Formed without approval of State Engineer.

†Voluntarily dissolved.

OUTLINE OF PROCEDURE FOR THE FORMATION OF A "WRIGHT" IRRIGATION DISTRICT.

The following is an outline of the steps in the procedure of forming an irrigation district and issuance of bonds for construction work:

(1) Determination of the general practicability of the proposed project. Advice may be obtained from the State Department of Public Works.

(2) Determination of boundaries of proposed district and of proposed source of water supply.

(3) Circulation of petition among property owners within proposed district. Petitions must contain the names of a majority of the holders of title to lands within the proposed district representing a majority in value of said land; or they may contain the names of 500 electors or landowners within the proposed district. This petition should be drawn up and circulated under competent legal advice. (Sec. 2.)

(4) Advertise proposal to present petition for two weeks in some newspaper of general circulation in the county or counties in which the proposed district is situated. (Sec. 2.)

(5) Present petition to board of supervisors at date specified in advertised notice and forward copy of petition to state engineer. (Sec. 2.)

(6) Hearing on sufficiency of petition by county board of supervisors (Sec. 2) and if found sufficient, forwarding of copy of the determination of the board of supervisors to the state engineer‡ for report. (Sec. 2.)

(7) After receiving the report of the state engineer, and if the proposed district is approved, final hearing on the matter by the board of supervisors and calling of election on organization, notice of such election to be published for at least three weeks prior thereto, and officers of the district to be voted on along with the matter of organization. (Secs. 6 to 8.)

(8) Board of supervisors to canvass votes cast at the election, and if carried, to declare district duly organized. (Sec. 9.)

(9) Organization of the board of directors and employment of an engineer to prepare plans for the district; determination by board of directors of the amount of bonds necessary; reference of plans and specifications to the irrigation district bond commission. (Secs. 13, 30, and 30a.)

(10) Report by the irrigation district bond commission and, if favorable, the calling of a bond election by the board of directors. (Sec. 30a.)

(11) Reference of bond issue to irrigation district bond commission for certification. (Special act Stats. 1913, p. 778; Stats. 1915, p. 692; Stats. 1917, p. 582; Stats. 1919, p. 1207; Stats. 1921, p. 1198.)

With these and other related steps fully set forth in the act, the district is ready to purchase or construct irrigation works and otherwise carry out proposals for which it has been formed.

‡The Division of Engineering and Irrigation, Department of Public Works, has succeeded to the powers and duties conferred or imposed upon the State Engineer by the Irrigation laws.

I. GENERAL PROVISIONS.

1. WATER RIGHTS SUBJECT TO REGULATION.

STATE CONSTITUTION, ARTICLE XIV, SEC. 1.

The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the state, in the manner to be prescribed by law * * *.

Water Works vs. San Francisco, 82 Cal. 286.
Williamson vs. Railroad Commission, 193 Cal. 22.

2. LEGISLATURE TO PROVIDE FOR SUPERVISION OF DISTRICTS.

STATE CONSTITUTION, ARTICLE XI, SEC. 13.

The legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this state. (Amendment adopted November 3, 1914.)

Merchants Bank vs. Escondido Irr. Dist., 144 Cal. 329.
San Leandro vs. Railroad Commission, 183 Cal. 229.
Mordecai vs. Board of Supervisors, 183 Cal. 434.
Turlock Irrigation District vs. White, 186 Cal. 183.
Tarpey vs. McClure, 190 Cal. 593.
Wores vs. Imperial Irrigation District, 193 Cal. 609.

3. TAKING IMMEDIATE POSSESSION IN EMINENT DOMAIN PROCEEDINGS.

STATE CONSTITUTION, ARTICLE I, SEC. 14.

Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation, except a municipal corporation or a county, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; *provided*, that in an action in eminent domain brought by the state, or a county, or a municipal corporation, or a drainage, irrigation, levee, or reclamation district, the aforesaid state or political subdivision thereof, or district may take immediate possession and use of any right of way required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon

giving such security in the way of money deposits as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier. (Amendment adopted November 5, 1918.)

Tormey vs. Anderson-Cottonwood Irr. Dist., 53 Cal. App. 559.
Marblehead Land Co. vs. Superior Court, 40 Cal. App. Dec. 291.

4. IRRIGATION IS PUBLIC USE.

An act regarding irrigation and declaring the same to be a public use.

(Approved May 1, 1911; Stats. 1911, p. 1407.)

Irrigation declared public use.

SECTION 1. Irrigation in the State of California is hereby declared to be a public necessity and a public use, and the power to eminent domain may be exercised on behalf of such public use in accordance with the provisions of title VII, part III of the Code of Civil Procedure of the State of California. Provided that any person, firm or corporation, exercising the power of eminent domain and in control of water appropriated for sale, rental or distribution, shall not, by this act, be relieved from the duty of furnishing water to irrigate the lands over which any right of way is obtained by condemnation for irrigation purposes as required by an act entitled, "An act to regulate and control the sale, rental and distribution of appropriated water in this state, other than in any city, city and county, or town therein and to secure the rights of way for the conveyance of such water to the places of use", approved March 12, 1885, or any other law now in force in this state.

Gravelly Ford Canal Co. vs. Pope and Talbot Land Co., 192 Cal. 4; same 36 Cal. App. 556.

Certain acts not affected.

SEC. 2. This act shall not repeal or modify an act entitled, "An act to regulate and control the sale, rental and distribution of appropriated water in this state, other than in any city, city and county, or town therein, and to secure the rights of way for the conveyance of such water to the place of use", approved March 12, 1885, and other acts supplemental thereto and amendatory thereof, or shall the same be construed to alter or change the law of the State of California as to the duty of any person, firm or corporation in charge of a public use to furnish water.

Effective, when.

SEC. 3. This act shall be in force from and after its passage.

Appropriation for private use of the taker is not "public use."

Gravelly Ford Co. vs. Pope & Talbot Co., 36 Cal. App. 556;
See also Const., Art. XIV, Sec. 1.

II. IRRIGATION DISTRICT ACTS.

1. CALIFORNIA IRRIGATION DISTRICT ACT.¹

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition and construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

(Approved March 31, 1897, Stats. 1897, p. 254; amended Stats. 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075; 1911, pp. 509, 1111; 1911 (extra session), pp. 135, 139, 248; 1913, pp. 59, 781, 993; 1915, pp. 836, 1291, 1326, 1367; 1917, pp. 751, 915; 1919, pp. 472, 660, 714; 1921, pp. 849, 859, 999, 1004, 1108²; 1923, pp. 83, 627, 628, 630, 631, 632; 1925, pp. 429, 460, 488, 501.)

ORGANIZATION.

Who may propose the organization of an irrigation district.

SECTION 1. A majority in number of the holders of title or evidence of title to lands susceptible of irrigation from a common source and by the same system of works including pumping from subsurface or other waters, such holders of title or evidence of title representing a majority in value of said lands, may propose the organization of an irrigation district, under the provisions of this act; or the organization of such an irrigation district may be proposed by not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; *provided*, that the said petitioners must include the holders of title or evidence of title to not less than twenty per cent in value of the lands included within the proposed district. The lands proposed to be included within any such irrigation district need not consist of contiguous parcels. Any holder of land under a possessory right acquired by entry or purchase from the United States or the State of California shall be deemed to be a holder of evidence of title to said land within the meaning of this act. The county assessment roll of the county in which any lands included within such proposed irrigation district are situated, which assessment roll has been last equalized at the time of the first publication of said petition as provided in section two of this act, shall be conclusive evidence as to the value of said lands and the holders of title or evidence of title to said lands. If any parcel of land is assessed on any assessment roll to unknown or fictitiously named owners, or to unnamed owners in addi-

¹NOTE—Because the present act continues the principles of the original Wright Act of 1887, it is still popularly known as the "Wright Act." The Wright Act of 1887 was repealed, however, in 1897, upon the passage of the present act.

Most of the annotations on this act were prepared by Mr. Francis Carr. The notes under section two were largely contributed by Mr. L. L. Dennett.

²NOTE—The provisions of the present act, when adopted, were based upon the provisions of the Wright Act and acts supplemental thereto, as indicated below.

Present Act	Original Acts
§§1-65	Wright Act, Stats. 1887, p. 29.
§§68-72	Stats. 1889, p. 212.
§§74-84	Stats. 1889, p. 21; as amended 1893, p. 516.
§§85-97	Stats. 1889, p. 18.
§§98-99 ¹	Stats. 1893, p. 276.
§§100-105	Stats. 1893, p. 295.
§§106-108	Stats. 1895, p. 127.

tion to any owner or owners named thereon, said parcel of land shall be deemed, for any of the purposes of this act, to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interest in any land are not specifically defined shall be deemed to have equal shares therein. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioners under this act. (Stats. 1919, p. 714.)

Organization:

Assessment roll as evidence of title.

Matter of Bonds of South San Joaquin Irr. Dist., 161 Cal. 345.

Legislature may authorize initiatory proposal to be made by such persons as it sees fit.

Imperial Water Co. vs. Supervisors, 162 Cal. 14-25.

Holders of title or evidence of title:

Board of Directors vs. Abila, 106 Cal. 355;

Carson vs. Cudworth (Colo.), 140 Pac. 935;

In re Gallatin Irr. Dist. (Mont.), 140 Pac. 92-4;

Gem. Irr. Dist. vs. Johnson (Idaho), 109 Pac. 845.

Inclusion of public land will not invalidate organization.

Cullen vs. Glendora W. Co., 113 Cal. 503;

Stevens vs. Melville (Utah), 175 Pac. 602;

Nevada Bank vs. Poso Dist., 140 Cal. 344;

Miller & Lux vs. Board of Supervisors, 36 Cal. App. Dec. 770;

Chambers vs. Board of Supervisors, 57 Cal. App. 401;

Ells vs. Board of Supervisors, 38 Cal. App. 480;

People vs. Cardiff Irr. Dist., 51 Cal. App. 307;

Miller & Lux vs. Board of Supervisors, 189 Cal. 254;

Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 732.

Petition to organize district.

SEC. 2. In order to propose the organization of an irrigation district, a petition signed by the requisite majority of holders of title or evidence of title to lands within the proposed district or by at least five hundred petitioners, as provided in section one of this act, shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated. Said petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and suf-

ficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the state engineer. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required, by filing a declaration, signed by the petitioner, with the board of supervisors before which the petition is to be presented, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, and no lack of signatures thereto, or to the petition as published, shall vitiate any proceedings thereon; *provided*, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth, it shall cause a copy of the resolution so declaring to be forwarded to the state engineer. Upon receiving a copy of said resolution, the state engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days from the date of the adoption of the said resolution, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, except that upon receiving a written request from the state engineer, the board of supervisors may at any meeting before the expiration of said ninety

days grant to the state engineer not more than ninety days additional time in which to make said report. If the state engineer shall report within the time specified herein that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reason or reasons, the hearing of the matter shall be continued for not more than two months and shall then be dismissed unless the board of supervisors shall be petitioned in writing by three-fourths of the holders of title or evidence of title to land within said proposed district to grant said petition; *provided*, that if the board of supervisors is not so petitioned, it may modify the plans for the proposed district in accordance with recommendations by the state engineer. If after receiving an adverse report from the state engineer the board of supervisors shall be petitioned as aforesaid or shall decide to modify the plans for the proposed district in accordance with recommendations by the state engineer, it shall, at the time to which the hearing of said matter shall have been continued, set a time for the final hearing thereof. If the continuance of the matter is not compelled by an adverse report as aforesaid, the board of supervisors, at its first regular meeting after the receipt of a report from the state engineer, or at the first regular meeting after the expiration of the time allowed for the making of such report if no such report has been received, shall set a time for a final hearing of the matter. In any case the time set for the final hearing as aforesaid shall not be less than one week from the meeting at which said time was set; *provided*, that notice of the time of such final hearing shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners, or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof are situated. A failure to give such last mentioned notice, however, shall not affect the validity of subsequent proceedings. On a final hearing herein provided for, the board may adjourn from time to time, but at no time for a longer period than three days until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should, in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. (Stats. 1919, p. 715.)

Petition:

The form or contents of the petition is not important, provided that it contains the required recitals showing the boundaries; the proposed sources of supply; that it is the purpose of the petitioners to organize an irrigation district; and praying that the same be organized thereunder.

Ells vs. Board of Supervisors (Cal. App.), 38 Cal. App. 480;
William Hanley Co. vs. Harney Valley Irrig. Dist. (Ore.), 180 Pac. 725.

Petition, signatures, and bond for cost of organization:

Board of Directors vs. Abila, 106 Cal. 365;
Fogg vs. Perris Irr. Dist., 154 Cal. 209;
Central Irr. Dist. vs. DeLappe, 79 Cal. 351;
In re Madera Irr. Dist., 92 Cal. 296;
McAulay vs. Board of Supervisors, 178 Cal. 628;
Black Canyon Dist. vs. Marple (Idaho), 112 Pac. 766.

Owners of possessory rights are eligible as petitioners.

Imperial Water Co. vs. Supervisors, 162 Cal. 25.

It appears to be proper for the board of supervisors to appoint someone as referee to compare the petitions and assessment roll.

Imperial Water Co. vs. Supervisors, 162 Cal. 24.

The best evidence, however, is required.

Wilder vs. Board, etc. (Colo.), 135 Pac. 461;
Ahern vs. Board of Directors (Colo.), 89 Pac. 964.

The presentation to the board of a bond is jurisdictional, and where, although the bond was informal it was a binding obligation upon those who signed it, the proceedings are not rendered illegal. The supervisors may permit a new bond to be filed.

In re Madera Irr. Dist., 92 Cal. 329;
Central Irr. Dist. vs. DeLappe, 79 Cal. 357.

Description of boundaries:

A description by metes and bounds sufficient for an ordinary conveyance will suffice. The petition is sufficient so long as the boundaries can be definitely located.

Central Irr. Dist. vs. DeLappe, 79 Cal. 351;
In re Madera Irr. Dist., 92 Cal. 296;
Cullen vs. Glendora Water Co., 113 Cal. 503;
Board of Directors vs. Kimball (Wash.), 157 Pac. 38.

Land in irrigation district may be included in municipal water district.

Henshaw vs. Foster, 176 Cal. 507.

Notice, publication, etc.:

In re Central Irr. Dist., 117 Cal. 382;
Fogg vs. Perris Irr. Dist., 154 Cal. 209;
Imperial Water Co. vs. Supervisors, 162 Cal. 14;
Tulare Dist. vs. Shepard, 185 U. S. 1, 46 L. Ed. 773;
Ells vs. Board of Supervisors (Cal. App.), 38 Cal. App. 480;
Wm. Hanley Co. vs. Harney Valley Irr. Dist. (Ore.), 180 Pac. 724.

The time set for the hearing must be at a regular meeting of the board of supervisors, but it is not necessary that the notice specify that fact.

Imperial Water Co. vs. Supervisors, 162 Cal. 23.

The notice need not be separately signed and may precede the petition, with the signatures attached to the petition.

Fogg vs. Perris Dist., 154 Cal. 209;
Ells vs. Board of Supervisors, 38 Cal. App. 480.

The date of the petition and notice should not vary.

Ahern vs. Board of Directors (Colo.), 89 Pac. 964.

Hearing:

At the hearing, the assessment roll is sufficient evidence of ownership.

Matter of Bonds of South San Joaquin Irr. Dist., 161 Cal. 345.

Right to withdraw from petition:

A petitioner may withdraw his name from the petition at any time prior to its presentation to the board of supervisors on the day fixed therefor; but see amendment of 1919 suspended by referendum.

McAulay vs. Board of Supervisors, 178 Cal. 628;
Covell vs. McBride, 46 Cal. App. Dec. 544.

Inclusion and exclusion of lands:

While it appears that the action of the board can not be arbitrary (*Ahern vs. Board of Directors*, 89 Pac. 964), yet in the absence of fraud the action of the board of supervisors can not be attacked.

Cullen vs. Glendora Water Co., 113 Cal. 503;
Fallbrook Irr. Dist. vs. Bradley, 164 U. S. 112.

The application for inclusion or exclusion need not be in writing.
Central Irr. Dist. vs. DeLappe, 79 Cal. 351.

Character of land that may be included:

As to the land that may be included within a district, the jurisdiction of the board seems to be very broad. It is proper to include cities and any land that in its natural state would be benefited by irrigation.

La Mesa Homes Co. vs. La Mesa Irr. Dist., 173 Cal. 121;
Tregea vs. Modesto Irr. Dist., 164 U. S. 179.

On the inclusion of city or town lots, *see also*

Board of Directors vs. Tregea, 88 Cal. 334;
In re Madera Irr. Dist., 92 Cal. 296;
Board of Directors vs. Abila, 106 Cal. 365;
In re Central Irr. Dist., 117 Cal. 382;
Imperial Water Co. vs. Supervisors, 162 Cal. 14;
Nampa Irr. Dist. vs. Brose (Idaho), 83 Pac. 499.

It appears that rights of way of railroads may likewise be included.
Oregon Short Line, etc., vs. Pioneer Dist. (Idaho), 102 Pac. 905.

But there also appears to be no machinery by which such rights of way may be compelled to pay assessments.

Atchison T. & S. F. Ry. Co. vs. Reclamation Dist. No. 404, 173 Cal. 91.

Fixing of boundaries by board of supervisors:

Central Irr. Dist. vs. DeLappe, 79 Cal. 351;
Cullen vs. Glendora Water Co., 113 Cal. 517;
Board of Directors vs. Tregea, 88 Cal. 334-351;
Imperial Water Co. vs. Supervisors, 162 Cal. 14;
Board of Directors vs. Kimball (Wash.), 157 Pac. 38;
Ahern vs. Board of Directors (Colo.), 89 Pac. 963.

Inclusion or exclusion after organization:

Where the petitioner brings himself within the specified classes of those entitled to exclusion, he has an absolute right to such exclusion and writ of mandate will issue to enforce such right.

Harelson vs. South San Joaquin Irr. Dist., 20 Cal. App. 324.

State engineer, procedure upon receipt of adverse report by:

Rich et al vs. Connally et al. 35 C. A. D. 134.

Miller & Lux vs. Board of Supervisors, 36 Cal. App. Dec. 770;
Chambers vs. Board of Supervisors, 57 Cal. App. 401;
Ells vs. Board of Supervisors, 38 Cal. App. 480;
People vs. Cardiff Irr. Dist., 51 Cal. App. 307;
Rich vs. Connally, 52 Cal. App. 556;
Miller & Lux vs. Board of Supervisors, 189 Cal. 254;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 132;
People vs. Lake Co. Water Dist., 183 Cal. 137.

State engineer to furnish information.

SEC. 2a. The state engineer shall have authority, and it shall be his duty, to give information so far as may be practicable to persons contemplating the organization of irrigation districts under the provisions of this act. Whenever the department of engineering shall deem it in the public interest that preliminary surveys and field investigations of proposed irrigation district projects shall be made at the expense of the state, the state engineer shall make such surveys and field investigations of such proposed irrigation district projects, and, pending the completion of such surveys and investigation, the state water commission shall have authority to withhold from appropriation any unappropriated waters likely to be needed therefor. (Stats. 1917, p. 755.)

Miller & Lux vs. Board of Supervisors, 189 Cal. 254;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94.

Order of supervisors reaffirming conclusions.

SEC. 3. Upon the final hearing of said petition or said matter, the board of supervisors shall make an order reaffirming its conclusions as to the genuineness and sufficiency of the petition and notice hereinbefore

provided for, reciting that a report regarding the proposed district has been made by the state engineer and is on file with the other records of the board, and describing the boundaries of the proposed district as defined and established by said board. Said order shall be entered in full upon the minutes of said board. At said final hearing no evidence shall be heard against the genuineness or sufficiency of said petition or notice unless it shall be shown to the satisfaction of said board that new evidence which, if uncontradicted, would disprove the genuineness or sufficiency of said petition or notice has been discovered since said board adopted the resolution declaring that said petition and notice complied with all the requirements of this act. In case any new evidence is admitted, full opportunity shall be given for the introduction of evidence in rebuttal thereof. (Stats. 1913, p. 996.)

Sufficiency of petition and genuineness of signatures to be determined by board of supervisors.

Imperial Water Co. vs. Supervisors, 162 Cal. 14-19.

Ells vs. Board of Supervisors, 38 Cal. App. 480;
Rich vs. Connelly, 52 Cal. App. 556.

Finding of board to be conclusive.

SEC. 4. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. (Stats. 1911, extra session, p. 139.)

Former section 4 providing for appeal to superior court was unconstitutional.
Chinn vs. Superior Court, 156 Cal. 478.

Certiorari:

Imperial Water Co. vs. Supervisors, 162 Cal. 14.

Conclusiveness of order:

Fallbrook Irr. Dist. vs. Bradley, 164 U. S. 112, 171;
People vs. Hagar, 52 Cal. 171-182;
Board of Directors vs. Tregea, 88 Cal. 335-54;
In re Madera Irr. Dist., 92 Cal. 296-324;
O'Neill vs. Yellowstone Dist. (Mont.), 121 Pac. 283;
Progressive Irr. Dist. vs. Smith (Idaho), 156 Pac. 1133;
Board of Directors vs. Peterson (Ore.), 129 Pac. 123;
Links vs. Anderson (Ore.), 168 Pac. 605;
Herrett vs. Warm Springs Dist. (Ore.), 168 Pac. 609;
Andrews vs. Lillian Irr. Dist. (Nebr.), 97 N. W. 336;
Sowerwine vs. Central Dist. (Nebr.), 124 N. W. 119;
Ells vs. Board of Supervisors (Cal. App.), 38 Cal. App. 480.

Statute of limitations:

(See Sec. 72 *infra*.)

In re central Irr. District, 117 Cal. 382;
People vs. Perris Irr. Dist., 142 Cal. 601;
Miller vs. Perris Irr. Dist., 85 Fed. 693;
Tulare Irr. Dist. vs. Shepard, 185 U. S. 1-18, 46 L. Ed. 773, 781;
Progressive Irr. Dist. vs. Anderson (Idaho), 114 Pac. 16-18.

Bona fide attempt to organize followed by user:

Tulare Irr. Dist. vs. Shepard, 185 U. S. 1.

Miller & Lux vs. Board of Supervisors, 36 Cal. App. Dec. 770;
Miller & Lux vs. Board of Supervisors, 189 Cal. 254;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
Ells vs. Board of Supervisors, 38 Cal. App. 480;
Miller & Lux vs. Secara, 193 Cal. 755.

Divisions in district and election of directors.

SEC. 5. If, on said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof; *provided*, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that only three directors be elected, and that the directors may be elected by the district at large, or by divisions, as such petition shall provide, but in any event such directors shall be elected to represent separate divisions and shall be residents of the respective divisions they are elected to represent. (Stats. 1915, p. 1368.)

Cullen vs. Glendora Water Co., 113 Cal. 503;
Abbey vs. Board of Directors, 58 Cal. App. 757.

ELECTION ON ORGANIZATION.

Election on organization.

SEC. 6. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, and shall designate a name for the proposed district, and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or words equivalent thereto, and also the names of persons to be voted for at said election. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, but no particular form of ballot shall be required.

Central Irr. Dist. vs. DeLappe, 79 Cal. 351;
Cullen vs. Glendora Water Co., 113 Cal. 503;
Links vs. Anderson (Ore.), 168 Pac. 1182;
Ells vs. Board of Supervisors, 38 Cal. App. 480.

Officers to be elected.

SEC. 7. At such election there shall be elected a board of directors, and an assessor, tax collector, and treasurer; *provided*, that where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated.

Qualifications of electors.

SEC. 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

In re Madera Irr. District, 92 Cal. 321.

Canvass of votes; majority to determine organization.

SEC. 9. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that a majority of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected. (Stats. 1919, p. 718.)

Imperial Water Co. vs. Supervisors, 162 Cal. 14-19;
Progressive Irr. Dist. vs. Anderson (Idaho), 114 Pac. 16.

Order to be filed with county recorder.

SEC. 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last-mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

Courts have no power to dissolve an irrigation district in the absence of statutory authority.

People vs. Selma Irrigation Dist., 98 Cal. 206.

When the organization of the district has been declared by order of the board of supervisors, the order is notice to its inhabitants and to the world of its existence and of its boundaries.

Fogg vs. Perris Irr. District, 154 Cal. 209;
Progressive Irr. Dist. vs. Anderson (Idaho), 114 Pac. 16.

Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 732.

Election may be contested; appeal.

SEC. 11. Such election, on organization, may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; *provided*, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought

within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

Tenure of office.

SEC. 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

Officers of irrigation district are public officers.

In re Madera Irr. District, 92 Cal. 296;
People vs. Selma District, 98 Cal. 206.

DUTIES AND POWERS OF THE BOARD OF DIRECTORS.

Organization.

SEC. 13. The directors of any district created after the passage of this act, on the first Tuesday after they have been declared elected and after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the less number shall expire at the next general February election in this act provided for; and the term of office of the class having the greater number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors. (Stats. 1921, p. 859.)

Board of directors have no power to appoint their own members as secretary or superintendent.

Interstate Trust Co. vs. Stcel (Colo.), 173 Pac. 873-5.

Monthly meetings; quorum.

SEC. 14. The board of directors shall hold a regular meeting on the first Tuesday of each month at the place selected as the office of the board; *provided*, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is kept. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days notice thereof must be given to each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of

the board must be public and three members shall constitute a quorum for the transaction of business; *provided, however*, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors; *provided, also*, that when a day other than the first Tuesday in the month shall have been specified as the time for the regular meeting of the board of directors, thereafter the newly elected officers of the district shall take effect at noon on the day fixed for the regular monthly meeting of said board in March and said board shall meet for reorganization and the transaction of any other business of the district in the afternoon of said day. (Stats. 1917, p. 755.)

Imperial Land Co. vs. Imperial Irr. District, 173 Cal. 660-5.

Publication of financial condition.

SEC. 14a. The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper published in the county where the office of the board of directors of such district is situated. (Stats. 1917, p. 756.)

General powers of directors.

SEC. 15. The board of directors shall have the power and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties.¹ The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. Said board shall also have the right to acquire, by purchase, lease, contract, condemnation,² or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, whether in this or in other states³ or in a

¹Section 7 of the Workmen's Compensation, Insurance and Safety Act of 1917 (as amended by Stats. 1919, p. 913) provides that the term "employer" as used in the act, shall be construed to include irrigation districts.

²For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution, page 9 hereof.

³For regulations governing agreements with irrigation districts in adjoining states, see supplementary act of 1917 (Stats. 1917, p. 905).

foreign nation, including canals, and works constructed and being constructed by private owners,⁴ lands for reservoirs for the storage of useful waters, and all necessary appurtenances, and also where necessary or convenient to said ends to acquire and hold the stock of other corporations domestic or foreign⁵ owning waters, canals, water works, franchises, concessions or rights. Said board may enter into, and do any acts necessary or proper for the performance of any agreements with the United States⁶ or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might lawfully be acquired or owned by the irrigation district, and may acquire the right to store water in any reservoirs or to carry water through any canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of the right to the use of any water the right to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district. (Said board may also enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them, for the transfer or delivery to any such district, corporation, association, firm or individual, of any water right or water pumped, stored, appropriated, or otherwise acquired or secured for the use of the irrigation district or for the purpose of exchanging the same for other water or water right or water supply in exchange for water or water right or water supply to be delivered or transferred to said irrigation district by the other party to said agreement. (Stats. 1925, p. 460.)

Irrigation district may sue and be sued.

Boehmer vs. Big Rock Irr. Dist., 117 Cal. 19;

Peters vs. Union Gap Irr. Dist. (Wash.), 167 Pac. 1085;

Danley vs. Merced Irrigation District et al., 43 Cal. App. 565; 67 Cal. Dec. 403;

Noon vs. Gem Irr. District, 205 Fed. 402.

Power of directors to make contracts:

Board of Directors vs. Peterson (Ore.), 128 Pac. 837;

Colburn vs. Wilson (Idaho), 130 Pac. 381;

Hansen vs. Kittitas Dist. (Wash.), 134 Pac. 1083;

Warm Springs Irr. Dist. vs. Pacific Live Stock Company (Ore.), 173 Pac. 265.

"Property necessary" includes pipeline:

Rialto Irr. Dist. vs. Brändon, 103 Cal. 384.

Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;

N. P. Ry. Co. vs. John Day Irr. Dist. (Oregon), 211 Pac. 781.

SEC. 15a. (Repealed Stats. 1919, p. 661, Ch. 339.)

Dams; conveyances.

SEC. 15b. The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection

⁴The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

⁵Districts are given authority to acquire the stock of any foreign corporation owning a system in a foreign country by Art. IV, Sec. 31, of the Constitution, page 9 hereof.

⁶Authority to enter into agreements with the United States government under the federal reclamation laws is given by Stats. 1917, p. 243 and p. 781. Supplementary powers are also given by Stats. 1907, p. 569, providing for drainage by districts, and Stats. 1913, p. 75, permitting the employment of agricultural experts by districts.

of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each landowner in said district for irrigation and domestic purposes; *provided*, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. (Stats. 1917, p. 758.)

Right to contract with mutual water company to deliver water to district sustained under Idaho statute.

Pioneer Irr. Dist. vs. Stone (Idaho), 130 Pac. 382.

Rules for use of water.

SEC. 15c. It shall be the duty of the board of directors of any irrigation district to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. (Stats. 1917, p. 758.)

General and implied powers:

City of Nampa vs. Nampa, etc. Dist. (Idaho), 131 Pac. 8;
Stevens vs. Melville (Utah), 175 Pac. 602-4.

Power to make and enforce rules:

Hamp vs. State (Wyo.), 118 Pac. 653, 662;
La Mesa Community Ditch vs. Appelzoeller (N. Mex.), 140 Pac. 1051.
See also Sec. 18 hereof.

Nelson vs. Anderson-Cottonwood Irr. Dist., 51 Cal. App. 92.

Change election precincts; lease canals.

SEC. 15d. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions or election precincts of the district or of both; *provided*, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions and precincts must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the state, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and

works in the district, or any part thereof, whenever such leasing may be for the benefit of the district; *provided*, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all such bids. Such lease shall in no way interfere with any rights that may have been established by law, at the time such lease is made; *and, further provided*, that the board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees. (Stats. 1917, p. 758.)

Lease or transfer of property:

Byington vs. Sacramento Valley, etc., Co., 170 Cal. 124, 130.

SEC. 15½. (Renumbered as section 15d by Stats. 1917, p. 758.)

Condemnation proceedings.

SEC. 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three of the Code of Civil Procedure of the State of California, and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceedings hereunder.¹ (Stats. 1917, p. 759.)

Condemnation, procedure:

Warm Springs Irr. Dist. vs. Pacific Live Stock Co. (Ore.), 173 Pac. 265.

Power to condemn canals and water rights of irrigation district for more necessary public use, queried:

Colburn vs. Wilson (Idaho), 130 Pac. 381.

Showing of necessity:

Rialto Irr. Dist. vs. Brandon, 103 Cal. 384.

Taking possession before judgment. Const., Art. I, Sec. 14:

Marblehead Land Co. vs. Superior Court, 40 Cal. App. Dec. 291.

WATER REGULATIONS.

Water regulations.

SEC. 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, and for domestic and other incidental and beneficial uses, within such district,² together with the rights of way for canals and ditches,¹ sites for reservoirs, and all other property required in fully carrying out the provisions of this act is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law. (Stats. 1911, p. 512.)

Apportionment of water.

SEC. 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner

¹For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution, page 9 hereof.

²See Art. XIV, Sec. 1, of the Constitution, page 10 hereof, declaring use of water a public use. Also, see p. 110 hereof, "An act regarding irrigation and declaring the same to be a public use," approved May 1, 1911, Stats, 1911, p. 1407.

upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; and any land owner may assign the right to the whold or any portion of the waters so apportioned to him; *provided*, that when any rates of toll and charges for the use of water are fixed by the board of directors, as provided in section fifty-five of this act, the water for the use of which such rates of toll and charges have been fixed shall be distributed equitably, as may be provided by the board of directors, among those offering to make the required payment therefor; *and provided, further*, that if an irrigation district has contracted to deliver, and is delivering, water to mutual water companies for distribution to territory served thereby, the water shall be apportioned on such a basis as the board of directors shall find to be just and equitable and for the best interests of all parties concerned. (Stats. 1919, p. 661.)

Board of Directors vs. Tregea, 88 Cal. 334;
Hewitt vs. S. J. and P. V. Irr. Dist., 124 Cal. 186;
Merchants, etc. Bank vs. Escondido Seminary, 144 Cal. 329;
Jennison vs. Redfield, 149 Cal. 500;
Nelson vs. Anderson-Cottonwood Irr. Dist., 34 C. A. D. 316;
 See also Sec. 15c hereof.
Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;
Nelson vs. Anderson-Cottonwood Irr. Dist., 51 Cal. App. 92.

GENERAL ELECTIONS.

Irrigation district officers to be elected.

SEC. 19. An election, which shall be known as the general irrigation district election, shall be held in each irrigation district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term shall expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The elective officers of an irrigation district shall be as many directors as there are divisions in the district, and an assessor, a collector and a treasurer; *provided*, that if any two or more offices shall have been consolidated as provided in section seven or section twenty-seven hereof, only one person shall be elected to fill such consolidated offices. The term of office of each elective officer of an irrigation district elected at or after the general irrigation district election in one thousand nine hundred nineteen shall be four years, or until his successor is elected and has qualified. (Stats. 1917, p. 759.)

N. P. Ry. Co. vs. John Day Irr. Dist. (Oregon), 211 Pac. 781.

Official bonds.

SEC. 19a. Within ten days after receiving their certificates of election hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; *provided*, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit

the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount of the collector's bond not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; *provided*, that in case any district organized under this title is appointed fiscal agent of the United States or by the United States in connection with any federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. (Stats. 1917, p. 760.)

Form and condition of official bond:

Political Code, sections 954, 958.

Vacancy created by failure of officer to qualify:

Political Code, section 996, subdivision 9.

If election be not held.

SEC. 19b. If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by ten per cent of the electors residing within the boundaries of any such irrigation district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. (Stats. 1917, p. 760.)

Beginning of term; organization of board.

SEC. 20. At noon of the first Tuesday in March next following their election, except as provided in section fourteen of this act, the officers who shall have been elected at the preceding general irrigation district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. (Stats. 1917, p. 761.)

Notice of elections; election officers.

SEC. 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector, two judges and two clerks, or at their option one inspector, one judge and one clerk, who shall in either case constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors, must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held. (Stats. 1921, p. 860.)

Powers and duties of election officers.

SEC. 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any electors of the precinct may administer and certify such oath. The polls must be opened at six a.m. on the morning of the election, and be kept open until seven p.m., when the same must be closed; *provided, however*, the board of directors may in the notice of election as provided in section twenty-one of this act provide that the polls shall be open from eight a.m. to four p.m., at which times the polls shall be opened and closed respectively. (Stats. 1921, p. 860.)

Opening and closing polls:

Board of Directors vs. Abila, 106 Cal. 365.

Ballots; manner of voting.

SEC. 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Where more than one person is to be elected for an office of the same title, the words "Vote for — (inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a

cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. (Stats. 1909, p. 1062.)

Form of ballot:

Political Code, section 1197, subdivision 8:
Edes vs. Haley (Wash.), 162 Pac. 50.

Nominating petitions.

SEC. 22b. Not less than ten days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district. (Stats. 1909, p. 1063.)

Voting and counting of votes.

SEC. 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Right of contest of election of officers elected at irrigation district election:

Hertle vs. Ball (Idaho), 72 Pac. 953;

(See also Sec. 72, *infra*.)

... *Huck vs. Rathjen*, 43 Cal. App. Dec. 557.

Canvass of votes.

SEC. 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be

satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

Canvassing returns and declaring result:

Board of Directors vs. Abila, 106 Cal. 365;
Edes vs. Haley (Wash.), 162 Pac. 50.

Statement of results; vacancies, how filled.

SEC. 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; *provided*, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Quinton vs. Equitable Investment Co., 196 Fed. 314;
Drescher vs. Board of Supervisors, 65 Cal. Dec. 515.

Qualification of director.

SEC. 26. A director shall be a resident and freeholder of the irrigation district and a resident of the division which he is elected to represent. (Stats. 1917, p. 761.)

The acts of an officer, though not qualified for want of residence within the district, will be regarded as valid acts of an officer *de facto*.

Baxter vs. Vineland Irr. Dist., 136 Cal. 185, 193.

Consolidation of offices.

SEC. 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The

order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; *provided*, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

Appointment of deputies by treasurer.

SEC. 27a. The treasurer and collector of any irrigation district may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office, said deputies to hold office at the pleasure of the appointing power. Such appointment must be in writing and filed in the office of the board of directors. Every such deputy shall take and file an oath in the manner required of his principal before assuming the duties of his office. (Stats. 1923, p. 632.)

Directors, election of and changing number of.

SEC. 28. In any district the board of directors thereof must, if a petition therefore signed by a majority of the holders of title or evidence of title to the lands within said district representing a majority in value of said lands shall have been filed in the office of the board at least seventy days before the next ensuing general irrigation district election, make an order that the number of directors in said district shall be changed to three or five, or that the directors shall be elected by the district at large or by divisions, or that both the number of directors and the method of their election shall be thus changed, as may be requested in said petition; or, the board of directors on its own initiative, by resolution adopted not less than fifty days before the next ensuing general irrigation district election, may, and said board must, if a petition therefor signed by at least five hundred holders of title or evidence of title to lands within said district representing at least twenty per cent in value of the lands within said district shall have been filed in the office of the board at least seventy days before the next ensuing general irrigation district election, submit to the qualified electors of the district at said election the question whether the number of directors in said district shall be changed to three or five, or whether the directors shall be elected by the district at large or by divisions, or whether both the number of directors and the method of their election shall be thus changed. If upon the submission of said question at an election as aforesaid, a majority of the electors voting thereon in said district and a majority of the electors voting thereon in each division of a majority of the divisions within said district shall approve the change, or changes, proposed in the proposition submitted, the board of directors shall make an order in accordance with such approval. If an order made by the board of directors as in this section provided shall require a change in the method of electing directors, all directors thereafter elected in said district shall be elected by divisions or by the district at large as may be provided in said order. If such an order shall require a change in the number of directors, the board of directors shall forthwith redivide said district into the number of divisions corresponding to the number of directors specified in said order, and the terms of office of all the directors of the district shall expire on the first Tuesday in March following the next general irrigation district election, and at said election

the number of directors designated in said order shall be elected and shall enter upon the duties of their office on the first Tuesday in March next following their election, and shall classify themselves and determine the length of their respective terms in the manner provided in this act in the case of directors elected upon the organization of a district. The provisions of section one of this act regarding evidence of the genuineness of signatures and place of residence of petitioners shall apply to the petitions provided for in this section. If a question is submitted to the electors of a district as in this section provided, it shall be stated on the ballot, and the method of voting thereon shall be, as nearly as practicable in conformity with the provisions of section thirty e of this act, and the notice of election shall contain a statement showing what change or changes are proposed in the question thus to be submitted. (Stats. 1923, p. 83.)

Abbey vs. Board of Directors, 58 Cal. App. 757.

Recall of officers.

SEC. 28 $\frac{1}{2}$.¹ The holder of any elective office of any irrigation district may be removed or recalled at any time by the electors; *provided*, he has held his office at least six months. The provisions of this section are intended to apply to officials now in office, as well as to those hereafter elected. The procedure to effect such removal or recall shall be as follows: A petition demanding the election of a successor to the person sought to be removed shall be filed with the secretary of the board of directors of such district, which petition shall be signed by registered voters equal in number to at least twenty-five per cent of the highest vote cast within such district for candidates for the office, the incumbent of which is sought to be removed, at the last general election in such district at which an incumbent of such office was elected, or, in the case of the removal of the incumbent of an office elected by a subdivision of such district, such petition shall be signed by a like percentage of qualified electors of such subdivision computed upon the total number of votes cast in such subdivision for all candidates for the office, the incumbent of which is sought to be removed, at the last general election in such subdivision at which an incumbent of such office was elected; and said petition shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in nowise affect the validity of the election and proceedings held thereunder. The signatures to the petition need not all be appended to one paper. Each signer shall add to his signature his place of residence, giving the precinct, and if within a town having named streets and numbered houses, street and number. Each such separate paper shall have attached thereto an affidavit made by an elector of the district and sworn to before an officer competent to administer oaths, stating that the affiant circulated that particular paper and saw written the signatures appended thereto; and that according to the best information and belief of the affiant, each is the genuine signature of the person whose name purports to be thereunto subscribed and of a qualified elector of the district. Within ten days

¹ Removal for cause, see section 73, *infra*.

from the date of filing such petition, the secretary of the board shall examine and from the records of registration ascertain whether or not said petition is signed by the requisite number of qualified electors, and he shall attach to said petition his certificate showing the result of said examination. If by the said certificate the petition is shown to be insufficient, it may be supplemented within ten days from the date of such certificate, by the filing of additional papers, duplicates of the original petition except as to the names signed. The secretary shall, within ten days after such supplementing papers are filed, make like examination of a supplementing petition, and if a certificate shall show that all the names to such petition, including the supplemental papers, are still insufficient, no action shall be taken thereon; but the petition shall remain on file as a public record; and the failure to secure sufficient names shall be without prejudice to the filing later of an entirely new petition to the same effect. If the petition shall be found to be sufficient, the secretary shall submit the same to the board of directors without delay, whereupon the board shall forthwith cause a special election to be held within not less than thirty-five nor more than forty days after the date of the order calling such election, to determine whether the voters will recall such officer; *provided*, that if a general election is to occur within sixty days, from the date of the order calling for such election, the board may in its discretion postpone the holding of such election to such general election or submit such recall election at any such general election for officers of such district occurring not less than thirty-five days after such order. If a vacancy occur in said office after a recall petition is filed, the election shall nevertheless proceed as in this section provided. One petition is sufficient to propose a removal and election of one or more elective officials. One election is competent for the removal and election of one or more elective officials. Nominations for any office under such recall election shall be made in the manner prescribed by section twenty-two *b* of this act.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (X) his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The election shall be conducted, canvass of all votes for candidates for said office shall be made and the result declared in like manner as in a regular election within such district. If the vote at any such recall election shall recall the officer, then the candidate who has received the

highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law. If the vote at any such recall election shall not recall the officer, no further petition for the recall of such officer shall be filed before the expiration of six months from the date of such first recall election. (Stats. 1911, Extra Session, p. 135.)

This section is constitutional.

Wigley vs. South San Joaquin Irr. Dist., 31 Cal. App. 162, 159 Pac. 985.

Chambers vs. Glenn-Colusa Irr. Dist., 57 Cal. App. 155.

TITLE TO PROPERTY.

Title to property vests in district.

SEC. 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district, in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided. The board of directors may determine by resolution duly entered upon their minutes that any property, real or personal, held by such irrigation district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell such property; and a conveyance of any property held by an irrigation district, executed by the president and secretary thereof, in accordance with a resolution of the board of directors of such district, when sold for a valuable consideration, shall convey good title to the property so conveyed. (Stats. 1909, p. 1075.)

Hewitt vs. S. J. and P. V. Irr. Dist., 124 Cal. 186;

Merchants Bank vs. Escondido Seminary, 144 Cal. 329;

Jennison vs. Redfield, 149 Cal. 500;

Tulare Irr. Dist. vs. Collins, 154 Cal. 440;

(See Secs. 44 and 47.)

ISSUANCE OF BONDS.

Estimate of money needed for improvements.

SEC. 30. For the purpose of constructing or purchasing necessary irrigation canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights, reservoirs, reservoir sites, and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, or any other act under which said district is or may be authorized to acquire property or construct works, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the board of directors shall find that the construction fund raised by the last previous bond issue is insufficient, or that the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of

them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for said estimate. Said surveys, examinations, drawings and plans, and the estimate based thereon may provide that the works necessary for a completed project shall be constructed progressively during a period of years. In the estimate of the amount of money necessary to be raised by the first issue of bonds in any district, the board of directors may include a sum sufficient to pay the interest on all of such bonds for three years or less. All such surveys, examinations, drawings and plans shall be made under the direction of a competent irrigation engineer and shall be certified by him. (Stats. 1919, p. 662.)

Purposes for which bonds may be issued:

Hughson vs. Crane, 115 Cal. 404;
Stimson vs. Alessandro Dist., 135 Cal. 389;
Leeman vs. Perris Irr. Dist., 140 Cal. 540;
Hooker vs. East Riverside Dist., 38 Cal. App. 615;
Stowell vs. Rialto Irr. Dist., 155 Cal. 215;
(See Sec. 61b, *infra*.)

Plans and estimate:

Board of Directors vs. Tregea, 88 Cal. 334;
Cullen vs. Glendora Water Co., 113 Cal. 503;
Hughson vs. Crane, 115 Cal. 404;
Hanson vs. Kittitas Dist. (Wash.), 134 Pac. 1083;
Board of Directors vs. Scott (Wash.), 140 Pac. 391.

Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;
Tormey vs. Anderson-Cottonwood Irr. Dist., 53 Cal. App. 559;
Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 732;
Wores vs. Imperial Irrigation District et al., 193 Cal. 609.

Report submitted to irrigation district bond commission.

SEC. 30a. The board of directors shall then submit a copy of the said estimate and the said engineer's report to the commission authorized by law to approve bonds of irrigation districts for certification as legal investments for savings banks and for the other purposes specified in the act creating said commission. Said commission shall forthwith examine said report and any data in its possession or in the possession of said district and shall make such additional surveys and examinations at the expense of the district as it may deem proper or practicable, and as soon as practicable thereafter shall make to the board of directors of said district a report which shall contain such matters as, in the judgment of the said commission may be desirable; *provided*, that it may state generally the conclusions of said commission regarding the supply of water available for the project, the nature of the soil proposed to be irrigated as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage, the cost of works, water rights and other property necessary for a complete and satisfactory project, the proper dates of maturity for the bonds proposed to be issued and whether in its opinion it is advisable to proceed with the proposed bond issue. If the estimate of the amount of said bond issue shall have included any amount for the payment of interest on the bonds of such issue, as provided in section thirty of this act, and such estimate for the payment of interest, or any part thereof, is approved by the commission in said report, it shall be lawful for the board of directors, if the issuance of such bonds is thereafter authorized by vote of the electors of the district, to use for the payment of interest on any bonds of such issue so much of the proceeds

of the sale of said bonds as may have been approved for that purpose in said report of the commission. (Stats. 1919, p. 662.)

Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321.

Order determining amount of bonds.

SEC. 30b. If after such examination and investigation the said commission shall deem it advisable that the said plans be modified or that the amount of the bonds proposed to be issued be changed, or that certain conditions should be prescribed to insure the success of the project, or that in its opinion it is not advisable to proceed with the proposed bond issue, it shall so state in its report to the board of directors. After receiving said report, or if no report is received within ninety days after the submission of said estimate and engineer's report to said commission, said board of directors, if it shall determine and shall declare by resolution that the proposed plan of works or some modified plan recommended by said commission is satisfactory and that the said project or said modified plan is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary therefor, and in determining said amount sufficient shall be included to cover the estimated cost of inspection of works in course of construction, as provided for by law; *provided*, that if any district shall issue bonds to carry out any plans approved by said commission as herein provided it shall be unlawful for said district to make any material change in said plans thereafter without the consent of said commission. (Stats. 1921, p. 1108.)

Special election.

SEC. 30c. After the making of the order specified in section thirty b of this act said board of directors may call a special election, at which shall be submitted to the electors of such district possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount determined in said order of said board shall be issued, and said board must call such an election and submit said question upon receipt of a petition signed by a majority of the holders of title or evidence of title to lands within the district, representing, also, a majority in value of said lands, or by at least five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing within the district or a holder of title or evidence of title to lands therein, provided that said petitioners shall include the holders of title or evidence of title to not less than twenty per cent in value of said lands. In determining the value of any lands within an irrigation district and the holders of title or evidence of title to such lands for the purpose of determining the sufficiency of any petition required by this act after the organization of the district, the assessment roll of the district last equalized at the time of the presentation of such petition shall be conclusive evidence, but if no assessment roll of the district has theretofore been equalized, then the county assessment roll of the county within which any lands within the district is situated, which county assessment roll has been last equalized at the time of the presentation of such petition, shall be conclusive evidence of such facts for such land. (Stats. 1919, p. 664.)

Who may sign petition:

Matter of Bonds of South San Joaquin Irr. District, 161 Cal. 345.

Election:

Board of Directors vs. Abila, 106 Cal. 365.

Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321.

Notice of election.

SEC. 30d. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; *provided*, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. (Stats. 1917, p. 762.)

Questions on ballot; two-thirds vote.

SEC. 30e. At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the irrigation district bond commission has reported thereon and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a general statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in such statement shall vitiate the election. Each proposition shall be followed by the words "Yes" and "No," on separate lines, with a small inclosed space after each of said words. The electors shall vote for or against any proposition by stamping a cross (X) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (X) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (X) in the voting space after the word 'No' following the proposition." If two-thirds of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; *provided*, that if said election shall have been called after the presentation of a petition therefor as provided in section thirty c of this act, the board of directors shall cause bonds in the amount specified in any proposition to be issued if a majority of the votes cast for and against said proposition are for "Yes." If the number of votes for any proposition is less than the number required herein to authorize the issuance of the bonds provided for therein, the result of the vote on said proposition shall be entered of record, but said proposition may be again submitted to the electors of the district at a special election upon the presentation to the board of directors of a petition therefor signed as provided in section thirty c of this act. (Stats. 1919, p. 664.)

Sec. 18 of Art. XI of state Constitution inapplicable:

In re Madera Dist., 92 Cal. 296.

Life of bonds; interest; denominations.

Sec. 31. Subject to the provisions of this act, the board of directors shall prescribe the form of the bonds issued by the district and of the interest coupons to be attached thereto. An issue of bonds is hereby defined to be all the bonds issued in accordance with a proposal approved by the electors of the district. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of directors shall fix the date of said bonds, or may divide any issue into two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the election at which its issuance was authorized and prior to its delivery to a purchaser from the district. The date of issue of any bond authorized under this act or heretofore or hereafter issued in pursuance of this act shall be deemed to be the apparent date of the said bond appearing on the face thereof. Each bond shall be signed by the president and secretary of the board of directors of the district, who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, and the seal of the district shall be impressed on each bond. The interest coupons shall also bear the signature of the secretary of the board of directors or a facsimile of such signature. The board of directors shall fix the denominations of said bonds, which shall not be less than one hundred dollars nor more than one thousand dollars. Said bonds shall bear interest at a rate to be fixed by the board of directors, but the rate shall not exceed six per centum per annum. The interest shall be payable on the first day of January and the first day of July of each year. The board of directors shall also designate the place or places at which said bonds or any of them and the interest thereon shall be payable.¹ Each issue or each division of any issue of said bonds shall be payable in gold coin of the United States in twenty series as follows, to wit: at the expiration of twenty-one years from the date of any issue or any division of any issue of said bonds, two per centum of the whole amount of such issue or division; at the expiration of twenty-two years from said date, two per centum of the whole amount of such issue or division; at the expiration of twenty-three years from said date, three per centum of the whole amount of such issue or division; at the expiration of twenty-four years from said date, three per centum of the whole amount of such issue or division; at the expiration of twenty-five years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-six years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-seven years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-eight years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-nine years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-one years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-two years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-three years from said date, six per centum of the whole amount

of such issue or division; at the expiration of thirty-four years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-five years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-six years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-seven years from said date, seven per centum of the whole amount of such issue or division; at the expiration of thirty-eight years from said date, seven per centum of the whole amount of such issue or division; at the expiration of thirty-nine years from said date, eight per centum of the whole amount of such issue or division; at the expiration of forty years from said date, eight per centum of the whole amount of such issue or division; *provided*, that if any bonds are not dated on the first day of January or the first day of July, they shall nevertheless be made payable on the first day of January or the first day of July next preceding the date on which they would become payable according to the foregoing schedule. Bonds of any issue may be made payable at the ends of other periods than are specified herein and the number of series may be more or less than twenty if the number of series and the length of the respective periods at the ends of which the respective amounts of bonds shall be made payable have been specified in the notice of the election at which the issuance of such bonds was authorized, or on the recommendation of the irrigation district bond commission, but in any event the bonds shall all be made payable on the first day of January or the first day of July next preceding the ends of the respective periods specified, unless said bonds are dated on the first day of January or the first day of July, and in no case shall the maturity of any bond be more than forty years from the date thereof, nor shall more than eight per centum of the total amount of any issue or division be made payable in any one year if the number of series is made more than twenty. Each bond shall be made payable at a given time for its full face value and not for a percentage thereof. (Stats. 1919, p. 665.)

Date of maturity of bonds and time of payment of interest:

Central Irr. Dist. vs. DeLappe, 79 Cal. 351;
Stowell vs. Rialto Irr. Dist., 155 Cal. 215;
Board of Directors vs. Peterson (Ore.), 128 Pac. 837.

Date of issue, signature of secretary, etc.:

Wright vs. East Riverside District, 138 Fed. 313;
Hooker vs. East Riverside District, 38 Cal. App. 615.

Negotiability of bonds:

Farwell vs. S. J. and P. V. Irr. Dist. (Cal. App.), 192 Pac. 1034.

Redemption of bonds:

See section 52, page 52 hereof.

Taxpayer's suit:

Sechrist vs. Rialto Irr. Dist., 129 Cal. 640;
Henry vs. Vineland Irr. Dist., 140 Cal. 376.
 See also section 69.

Validity of bonds in hands of bona fide holders:

Stimson vs. Alessandro Dist., 135 Cal. 389;
Baxter vs. Vineland Dist., 136 Cal. 185;
Haese vs. Heitzeg, 159 Cal. 569;
Ham vs. Grapeland Dist., 172 Cal. 611;
Tulare Dist. vs. Shepard, 185 U. S. 1.

Turner vs. Rosbury Irr. Dist. (Idaho), 198 Pac. 465.

¹Art. XI, Sec. 13¹, of the Constitution, authorizes the payment of bonds and interest in any place within or outside of the United States. See Part III, Division 4, Act 3 hereof.

Sale of bonds.

SEC. 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the construction of said canals and works, the acquisition of said property and rights, or the acquisition of any water or water rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders; *provided, however*, that they may reject any or all bids; *and provided, further*, that no proposal shall be accepted which is not accompanied by a certified check for such reasonable percentage of the amount of the bid as shall be determined by the board of directors, but in no event less than two per cent of the amount thereof to apply on the purchase price of the bonds, the amount of which check shall be forfeited if after the acceptance of the proposal the bidder shall refuse to accept said bonds and complete his purchase thereof on the conditions stated in his proposal. In case no award is made, the board thereafter may either advertise said bonds or any part thereof for sale or sell the same or any part thereof at private sale but no sale of said bonds at private sale shall be valid unless approved by the California bond certification commission. (Stats. 1921, p. 1108.)

Leeman vs. Perris Dist., 140 Cal. 540;
Stimson vs. Alessandro Irr. Dist., 135 Cal. 389;
Kinkade vs. Witherop (Wash.), 69 Pac. 399;
Wyman vs. Searle (Nebr.), 128 N. W. 801.

Funding or refunding bonds.

Sec. 32a. The board of directors of any irrigation district organized and existing under or subject to the provisions of this act may, by a majority vote of the members of the board, submit to the electors of the irrigation district at any election, the proposition of the issuance of new bonds for the purpose of funding or refunding any or all bonds of such district outstanding at the time of such election.

Such election shall be held and the result thereof determined and declared substantially in the same manner, and the vote required for the authorization of such bonds shall be the same as provided by this act for the issuance of other bonds of such districts.

Such funding or refunding bonds shall be issued in substantially the manner and in the form required by this act for the issuance of other bonds of irrigation districts, and the provisions of this act, and of the act creating the California bond certification commission, concerning the authorization, certification, issuance and sale of bonds of irrigation districts, shall be applicable to funding or refunding bonds; *provided, however*, that the maturities of said funding or refunding bonds shall

be fixed by the board of directors of said district, subject to the approval of the California bond certification commission, but in no case shall the maturity of any such bonds be more than forty years from the date thereof. Such funding or refunding bonds may be sold from time to time in the same manner as other bonds of the district, or, if the directors of the district and the holders of any outstanding bonds so elect, any such funding or refunding bonds may be exchanged for any outstanding bonds. Any such outstanding bonds so funded or refunded or exchanged shall be immediately canceled by the board of directors. (Stats. 1923, p. 628.)

Election on sale of bonds for less than par.

SEC. 32½. If any irrigation district bonds have been authorized before the time when this section shall go into effect but have not been sold and the board of directors of said district deems it desirable that said board be authorized to sell said bonds for less than the par value thereof, said board may call a special election to submit to the voters of the district said proposition. Such election shall be held and notice thereof shall be given in the same manner as is provided in the case of special elections to authorize the issuance of bonds in irrigation districts. The proposition shall be stated in substantially the following form: "Shall the board of directors of _____ (insert the name) irrigation district be authorized to sell bonds of the district for less than the par value thereof?" followed by the words "Yes" and "No," as provided in section thirty hereof. If at least two-thirds of the legal votes cast at such election are for "Yes," then the board of directors may sell any bonds authorized by said district before this section shall take effect to the highest responsible bidder. (Stats. 1913, p. 1000.)

Paid by annual assessment.

SEC. 33. Said bonds and the interest thereon shall be paid from revenue derived from an annual assessment upon the land within the district; and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided. (Stats. 1917, p. 764.)

Procedure for enforcement of lien:

Nevada National Bank vs. Poso Irr. Dist., 140 Cal. 344;
Boskowitz vs. Thompson, 144 Cal. 724;
Herring vs. Modesto District, 95 Fed. 705;
Perkins vs. People (Colo.), 147 Pac. 356;
Henrylyn Irr. Dist. vs. Thomas (Colo.), 173 Pac. 541;
Henrylyn Irr. Dist. vs. Thomas (Colo.), 181 Pac. 979, 980;
Rialto Irr. Dist. vs. Stowell, 246 Fed. 294;
Norris vs. Montezuma Irr. Dist., 248 Fed. 369;
Gas Securities Co. vs. Antero and Lost Park Reservoir Co., 259 Fed. 423.

Suit by bondholders to enforce payment:

Quinton vs. Equitable Investment Co., 196 Fed. 314.

Farwell vs. San Jacinto, etc., Irr. Dist., 49 Cal. App. 167.

ASSESSMENT FOR COMPLETION OF WORKS.

Assessment to complete works; notice of election; ballots.

SEC. 34. In case the money raised by the sale of bonds issued be insufficient, or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and the acquisition of the neces-

sary property, waters and water rights therefor, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan, and the acquisition of such necessary property, waters and water rights, by levy of assessments therefor; *provided, however*, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; *provided*, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes", or "Assessment—No", or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes", the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No", the result of such election shall be so declared and entered of record. (Stats. 1911, p. 514.)

Cooper vs. Miller, 113 Cal. 238;
Matter of Bonds of South San Joaquin Dist., 161 Cal. 345;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 668;
Corson vs. Crocker, 31 Cal. App. 626;
Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;
Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 732.

DUTIES OF THE ASSESSOR.

Duty of assessor; improvements exempt.

SEC. 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real estate in the district, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment book¹ with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (1) the name of the person to whom the property is assessed, if the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) land by township, range, section or fractional section, and when such land is not congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number

¹Pol. C., Sec. 3653, provides that, upon written request, the county assessor must furnish the district with a certified copy of the assessment book, so far as it pertains to property within the district.

of acres and locality; (3) city and town lots, naming the city or town and the number and block, according to the system of numbering in such city or town; (4) the cash value of real estate, other than city or town lots; (5) the cash value of city and town lots; (6) the total value of all property assessed; (7) the total value of all property after equalization by the board of directors; (8) such other things as the board of directors may require. Improvements on any lands or town lots within such districts shall be exempt from taxation for any of the purposes mentioned in this act. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description erected or being erected upon said lands or city or town lots. (Stats. 1917, p. 764.)

Cooper vs. Miller, 113 Cal. 238;
Escondido H. S. Dist. vs. Escondido Seminary, 130 Cal. 128;
Best vs. Wohlford, 144 Cal. 733;
W. U. Tel. Co. vs. Modesto Irr. Dist., 149 Cal. 662;
Best vs. Wohlford, 153 Cal. 17;
Imperial Land Co. vs. Imperial Irr. Dist., 173 Cal. 668;
Corson vs. Crocker, 31 Cal. App. 626;
Bruschi vs. Cooper, 30 Cal. App. 682;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
Wores vs. Imperial Irrigation District, 193 Cal. 609.

Assessor's deputies.

SEC. 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

Time for completion of assessment book; time for equalizing assessments.

SEC. 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested.

Lahman vs. Hatch, 124 Cal. 1;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
N. P. Ry. Co. vs. John Day Irr. Dist. (Oregon), 211 Pac. 781, 789;
Wores vs. Imperial Irrigation District, 193 Cal. 609.

EQUALIZATION OF ASSESSMENT.

Hearings on objections to assessments.

SEC. 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby

constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added.

Lahman vs. Hatch, 124 Cal. 1;
Imperial Land Co. vs. Imperial Irr. Dist., 173 Cal. 668;
Miller & Lux vs. Board of Supervisors, 189 Cal. 254;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
Miller & Lux vs. Secara, 193 Cal. 755.

LEVY AND COLLECTION OF TAXES.

Assessment for interest, principal, rentals, etc.

SEC. 39. The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the close of the next ensuing calendar year on account of rentals, or charges for lands, water or water rights acquired by said district under lease or contract; also sufficient to pay in full all sums due or that will become due from the district, before the close of the next ensuing calendar year on account of contracts entered into by the district for power or fuel used or to be used for the pumping of water for the irrigation of land within the district; *provided*, the payment of the cost of such power or fuel has not been provided for by the levying of tolls or charges for the use of water or otherwise; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligations of the district which shall have been reduced to judgment; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment roll thereof, as the board of directors shall determine may be needed to be raised by assessment for any of the purposes of this act. The board of directors may also include in any annual assessment such an amount as it may deem proper, not exceeding one per centum of the total assessed value of the land in the district, to be apportioned to the bond fund and to be used as provided in section fifty-two of this act, for the redemption of immatured bonds of the district or for the creation of a sinking fund to pay any of such bonds as they become due; *provided, however*, that notwithstanding any provision of this act or any act amendatory hereof, or supplementary hereto, the board of directors may in lieu, either in whole or in part, of levying the

annual assessment for the payment of interest on or principal of bonds, or for any other purposes of this act, use any income or revenue of the district derived from the sale of electric power or from the sale or lease of water or the use of water for power purposes. (Stats. 1925, p. 488.)

Cooper vs. Miller, 113 Cal. 238;
Hughson vs. Crane, 115 Cal. 404;
Lahman vs. Hatch, 124 Cal. 1;
Escondido H. S. Dist. vs. Escondido Seminary, 130 Cal. 128;
Baxter vs. Vineland Irr. Dist., 136 Cal. 185;
Boskowitz vs. Thompson, 144 Cal. 724;
Nevada National Bank vs. Poso Dist., 149 Cal. 662;
Matter of Bonds of South San Joaquin Dist., 161 Cal. 345;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 660;
Heisel vs. Hogan, 3 Cal. App. 248;
Nevada National Bank vs. Supervisors, 5 Cal. App. 638;
Corson vs. Crocker, 31 Cal. App. 626;
Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;
Board of Supervisors vs. Thompson, 122 Fed. 860;
Marra vs. S. J. and P. V. Irr. Dist., 131 Fed. 780;
Eberhard vs. Canon (Colo.), 157 Pac. 189;
Rio Grande, etc., Co. vs. Orchard Mesa District (Colo.), 171 Pac. 367.

Assessments on *ad valorem* basis constitutional:

In re Madera Irr. Dist., 92 Cal. 296.

Payment under protest:

Decker vs. Perry, 4 Cal. Unrep. 488.

"Outstanding bonds" defined:

Board of Directors vs. Tregea, 88 Cal. 334, 356.

Boree vs. Posco Irr. Dist., 36 Cal. App. Dec. 199;
Nelson vs. Anderson-Cottonwood Irr. Dist., 51 Cal. App. 92;
Miller & Lux vs. Board of Supervisors, 64 Cal. Dec. 57;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
McDonough vs. Cooper, 179 Cal. 384.

Duty of secretary.

SEC. 39a. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. (Stats. 1917, p. 765.)

McDonough vs. Cooper, 179 Cal. 384.

Neglect to make assessment.

SEC. 39b. If as the result of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors of said district is situated shall cause an assessment roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time when proper demand shall have been made therefor. In case of the

neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in special fund to the credit of the district and shall disburse the same to the proper persons for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. (Stats. 1917, p. 765.)

Duty of district attorney.

SEC. 39c. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action, as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the attorney general of the State of California that the district attorney of any county has not performed any duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the performance of any such duty, the attorney general shall make an investigation, and if it shall be found that such charge or charges are true, said attorney general shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. (Stats. 1917, p. 766.)

Marra vs. S. J. and P. V. Irr. Dist., 131 Fed. 780.

Extension of time.

SEC. 39d. If as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended

so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section forty-one of this act. (Stats. 1917, p. 767.)

Assessment of land omitted.

SEC. 39e. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessment on possession of, claim to, or right to the possession of land now provided in sections three thousand eight hundred twenty, three thousand eight hundred twenty-one, three thousand eight hundred twenty-two, three thousand eight hundred twenty-three, three thousand eight hundred twenty-four, three thousand eight hundred twenty-five and three thousand eight hundred twenty-nine of the Political Code, as regards county assessors shall apply, so far as applicable to irrigation district assessors. (Stats. 1917, p. 767.)

Unpaid tolls part of assessment.

SEC. 39f. Whenever any tolls and charges for the use of water and other public uses provided for by this act have been fixed by the board of directors, it shall be lawful to make the same payable in advance. In case any tolls or charges remain unpaid at the time specified for the delivery of the assessment book to the collector of the district, the amount due for such tolls and charges, may be added to and become a part of the annual assessment levied upon the land upon which the water for which such tolls and charges are unpaid was used and upon the lands subject to tolls and charges for other public uses, and shall constitute a lien on said land, and if such assessment is divided and made payable in two installments such unpaid tolls and charges may be added to and become a part of the first installment of said assessment. (Stats. 1925, p. 501.)

Assessment becomes a lien, when.

SEC. 40. The assessment upon land is a lien against the property assessed from and after the first Monday in March for any year. (Stats. 1917, p. 768.)

Assessments may be refunded, when.

SEC. 40a. In case the board of directors of any irrigation district shall find that any property has been assessed in any year more than once or has been assessed by reason of a clerical error for more than its full cash value, or computed on an excessive acreage, or that any property assessed was not in the district when so assessed, the board may authorize the collector to cancel or modify such assessment, as may be proper, and in case of any such change in any assessment, the secretary shall credit the collector with the amount of said assessment if it is canceled, or the amount by what it is reduced if it is modified.

Any assessments, penalties or costs thereon, or portions thereof, provided for by this act, heretofore or hereafter paid more than once, or heretofore or hereafter erroneously, or illegally collected, may by order of the board of directors be refunded by the district treasurer.

No order for the refund of assessments, penalties or costs under this section shall be made except upon a verified claim therefor verified by the person who has paid said assessments, penalties or costs, or by his guardian, or in case of his death, by his executor or administrator, which said claim must be filed within one year after the making of the payment sought to be refunded. (Stats. 1923, p. 632.)

Notice that assessments are due; when delinquent.

SEC. 41. On or before the first day of November, the secretary must deliver the assessment book to the collector of the district, who shall within twenty days publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable and will become delinquent at six o'clock p.m. on the last Monday of December next thereafter,¹ and that unless paid prior thereto ten per cent will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid, with the description of the property assessed. On the last Monday in December at six o'clock p.m. of each year,¹ all unpaid assessments are delinquent and thereafter the collector must collect thereon, for the use of the district, an addition of ten per cent. (Stats. 1913, p. 1002.)

San Diego vs. Linda Vista Dist., 108 Cal. 189;

Perry vs. Otay Irr. Dist., 127 Cal. 565;

Bruschi vs. Cooper, 30 Cal. App. 682;

Corson vs. Crocker, 31 Cal. App. 626;

Holland vs. Avondale Dist. (Idaho), 166 Pac. 259;

Farwell vs. San Jacinto etc. Irr. Dist., 49 Cal. App. 167.

Suit against delinquent, to collect assessment.

SEC. 41a. The board of directors may at any time after any assessment has become delinquent direct the collector not to proceed with the

¹If provision has been made for the payment of assessments in two installments, one-half becomes delinquent at the above time and one-half at 6 p.m. on the last Monday of June next thereafter. See section 4 of the act of 1909 permitting payment of assessments in two installments, Part III, Division 4, Act 4.

sale of any property on the delinquent list, but to bring suit against the delinquent in the proper court in the name of the district to enforce such collection. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials, and pleas are hereby made applicable to the proceedings herein provided for, and in such suit the district may recover the amount of said assessment together with the penalties and interests, provided in this act, and costs of suit. (Stats. 1915, p. 1368.)

Irrigation district assessment is an assessment for benefits.

San Diego vs. Linda Vista Irr. Dist., 108 Cal. 189.

As to enforcement of collection by suit against delinquent, see

Atchison T. & S. F. Ry. Co. vs. Reclamation Dist., 173 Cal. 91.

PUBLICATION OF DELINQUENT NOTICE.

Delinquent list; day of sale.

SEC. 42. On or before the first day of February, the collector must publish the delinquent list,¹ which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice, that unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; *provided*, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district; *provided, however*, that if there should occur any error in the publication of the sale of the delinquent property, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder the collector shall at once republish the sale of the property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, and stated in such republication.

Best vs. Wohlford, 153 Cal. 17;

Bruschi vs. Cooper, 30 Cal. App. 682-96.

SALE FOR DELINQUENT TAXES.

Sale of property for delinquent taxes.

SEC. 43. The collector must collect, in addition to the assessments due on the delinquent list, and ten per cent added, fifty cents on each lot, piece or tract of land separately assessed. On the day fixed for the

¹If provision has been made for the payment of assessments in two installments, publication of the delinquent list shall not be made before the first day of July, but must be made on or before the first day of August. See section 5 of the act of 1909 permitting the payment of assessments in two installments, Part III, Division 4, Act 4.

sale, or some subsequent day to which he may have postponed it, of which he must give notice, the collector, between the hours of ten a.m. and three o'clock p.m., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; *provided*, that if any sale or sales shall be stayed by legal proceedings, the time of the continuance of such proceedings is not part of the time limited for making such sale or sales; *and provided further*, that in any district where the validity of any assessment shall be in litigation at the time this act shall take effect, the sale of any property, whether it be involved in such litigation or not, may be postponed for a time not to exceed four months. (Stats. 1913, p. 1003.)

Woodruff vs. Perry, 103 Cal. 611;
Baxter vs. Vineland Dist., 136 Cal. 185-193;
Bruschi vs. Cooper, 30 Cal. App. 682;
Corson vs. Crocker, 31 Cal. App. 626.

Rights of owner of realty; resale in default of payment; district may purchase.

SEC. 44. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate, in writing, to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the collector may designate it and the person who will take the least quantity of the land, or in case an undivided interest, is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock a.m. the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated, as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry, "sold to the district" and he shall be credited with the amount thereof in his settlement. An irrigation district as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, subject to the right of redemption hereinafter provided, and the district as such purchaser may sell, assign and transfer such certificate of sale for a consideration of not less than the amount of the assessment, penalties and costs. (Stats. 1925, p. 429.)

Designation of least quantity, etc.:

Best vs. Wohlford, 153 Cal. 17-20.

Priority of tax liens:

Nevada National Bank vs. Poso Dist., 140 Cal. 344; ✓
Henrylyn Irr. Dist. vs. Patterson (Colo.), 176 Pac. 493;
 (Political Code, section 3787; Sec. 48, *infra*). ✓

Certificate of sale.

SEC. 45. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of

sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder of the county in which the land is situated.

Wilson vs. Carter, 117 Cal. 53;
Best vs. Wohlford, 153 Cal. 17;
Bruschi vs. Cooper, 30 Cal. App. 682;
Corson vs. Crocker, 31 Cal. App. 626;
McDonough vs. Cooper, 179 Cal. 384;
(See section 48, *infra*.)

Record book of property sold for assessments.

SEC. 46. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests with the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money, and two per cent per month from the day of sale until redemption.

REDEMPTION OF PROPERTY SOLD FOR DELINQUENT TAXES.

Redemption of property.

SEC. 47. A redemption of the property sold may be made by the owner or any party in interest, within three years from the date of purchase, or at any time thereafter before a deed has been made and delivered. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the purchaser or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the recorder must mark the word "redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector or his successor in office, upon demand, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser for the use of the district, two dollars for making such deed. Where property has been sold to the district and a deed for it has been given to the district as the pur-

chaser, the title so acquired by the district may be conveyed by deed executed and acknowledged by the president and secretary of the board of directors; *provided*, that authority to so convey must be conferred by resolution of the board entered on its minutes fixing the price at which such sale may be made; *and provided, further*, that where property has been sold to the district it may be redeemed as herein provided at any time before the district has disposed of the same. (Stats. 1925, p. 429.)

Bruschi vs. Cooper, 30 Cal. App. 682.

Delinquent taxes not bar to dissolution; deed of land sold.

SEC. 47½. The five year period herein prescribed for the redemption of properties sold for delinquent taxes shall not operate as a bar to the dissolution of any irrigation district. If any land has been sold for delinquent taxes of a district in process of dissolution, or in a district which has been dissolved, and the time allowed for redemption has not expired, the owner of such property or any one in interest may redeem the same by paying the amount due thereon, computed as provided in section forty-six of this act, to the county treasurer, who must issue his receipt therefor, and upon the presentation of such receipt the county recorder must cancel the certificate of sale in the manner required in the preceding section.

In the event any land has been sold for nonpayment of taxes as herein provided, and no redemption has been made within five years from the date of purchase in any district which may have been dissolved before the expiration of said redemption period, then a deed for the property sold and described in the certificate of sale must be made to the purchaser upon demand by the county treasurer of the county in which said irrigation district is or was situated. Such deed shall contain all the recitals of the certificate of sale, and in addition thereto, a recital that the district has been dissolved, and a deed executed in pursuance of the authority given by this section. A deed so executed shall have the same force and effect as if executed by the collector of an irrigation district. (Stats. 1911, p. 516.)

Tax deed, evidence of what.

SEC. 48. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is *prima facie* evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the

United States, or this state, in which case it is *prima facie* evidence of the right of possession.

Cooper vs. Miller, 113 Cal. 238;
Escondido H. S. Dist. vs. Escondido Seminary, 130 Cal. 128;
Best vs. Wohlford, 144 Cal. 733;
Best vs. Wohlford, 153 Cal. 17;
Haese vs. Heitzig, 159 Cal. 569, 575;
McDonough vs. Cooper, 179 Cal. 384;
Bruschi vs. Cooper, 30 Cal. App. 682;
Corson vs. Crocker, 31 Cal. App. 626.

Assessment book, evidence of what.

SEC. 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

Bruschi vs. Cooper, 31 Cal. App. 682;
Borec vs. Pasco Irr. Dist., 36 Cal. App. Dec. 199;
Miller & Lux, vs. Secara, 193 Cal. 755.

Misnomer does not invalidate.

SEC. 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof affects the sale, or renders it void, or voidable.

Escondido H. S. Dist. vs. Escondido Seminary, 130 Cal. 128;
Commercial National Bank vs. Schlitz, 6 Cal. App. 174, 182;
Bruschi vs. Cooper, 30 Cal. App. 682.

Settlements between secretary and collector.

SEC. 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

REDEMPTION OF BONDS AND PAYMENT OF INTEREST.

Redemption of bonds.

SEC. 52. Upon presentation of any matured bond or any matured interest coupon of any bond of the district, the treasurer shall pay the same from the bond fund. If funds are not available for the payment of any such matured bond or interest coupon, it shall draw interest at the rate of seven per cent per annum from the date of its presentation for payment until notice is given that funds are available for its payment, and it shall be stamped and provision made for its payment as in the case of a warrant for the payment of which funds are not available on its presentation. Whenever the bond fund contains ten thousand dollars in excess of the amount necessary to pay all bonds and interest coupons of the district that have matured or that will mature before the time when any part of the next annual assessment to be

levied in the district will become delinquent, the board of directors may advertise, in the manner hereinbefore provided for the sale of bonds, for the receipt of sealed proposals for the delivery to the district for redemption of any of its bonds not due. Said advertisement shall state the amount which may be used for the redemption of such bonds. Any such proposals shall be opened by the board in open meeting at the time named in said advertisement, and the offer or offers of such bonds at the lowest rate or rates shall be accepted; *provided*, that no bonds shall be redeemed at more than the par value thereof except by unanimous vote of the directors. In case two or more proposals are equal and there is not sufficient money available to accept them all, the lowest numbered bonds shall have the preference. In case not enough bonds are offered for redemption at prices which the board of directors accepts, the board may invest any money available for redemption of bonds in bonds of the United States or the State of California and shall hold the bonds so purchased as part of the bond fund until such time as the board may determine that it is for the best interests of the district that such bonds or any of them be sold. In case of the sale of any such bonds, the proceeds of the sale shall be deposited in the bond fund. (Stats. 1919, p. 667.)

Hewel vs. Hogin, 3 Cal. App. 248.

Statute of limitations:

Sechrist vs. Rialto Irr. Dist., 129 Cal. 640;

Curtis vs. Rialto Irr. Dist. (Cal. App.), 187 Pac. 117;

Farwell vs. San Jacinto and P. V. Irr. Dist. (Cal. App.), 192 Pac. 1034.

CONSTRUCTION OF WORKS.

Bids for construction of works.

SEC. 53. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice, by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals or may proceed to construct the work under their own superintendence; *provided*, that in case of emergency or urgent necessity for the construction, extension or repair of works for irrigation or drainage, the board of directors, by unanimous vote of those present at any regular or special meeting, may award contracts therefor without advertising for bids, but the cost of such work shall not exceed five hundred dollars and such additional amount as shall be equal to five cents for each acre of land in the district. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a

contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board. (Stats. 1919, p. 668.)

Healey vs. Anglo Bank, Ltd., 5 Cal. App. 278;
See section 9 of Stats. 1917, p. 243; p. 89 hereof;
Twohy Bros. Co. vs. Oshoco Irr. Dist. (Ore.), 210 Pac. 873.

Investigations by state engineer.

SEC. 53a. During the construction of any irrigation works to be paid for out of the proceeds of any bond issue which has been certified by the state irrigation district bond commission as provided in the act creating said commission, the state engineer shall have access to all plans, specifications, and records of such construction, and shall from time to time make such investigations and such reports to the board of directors of the district as he shall deem to be in the interest of the public or of the district. (Stats. 1917, p. 768.)

Payment of claims.

SEC. 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; *provided*, that the board may draw, from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same and place the same to the credit of said district, and he shall be responsible upon his official bond for the safekeeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

Perry vs. Otay Irr. Dist., 127 Cal. 565.

Negotiability and validity of warrants:

Danby vs. Starlight Irr. Dist. (Ore.), 157 Pac. 1066;
Interstate Trust Co. vs. Steele (Colo.), 173 Pac. 873-5.

Carmichael vs. Riley, 37 Cal. App. Dec. 318;
Ser-vis vs. Victor Valley Irr. Dist., 65 Cal. Dec. 329.

Reports to be forwarded to state engineer.

SEC. 54½. During the construction of any work to be paid for out of the proceeds of the sale of any bonds of any irrigation district

within this state, the secretary of the board of directors shall, within one week after each regular meeting of said board, forward to the state engineer copies of all reports made to said board as to the progress of said work and a statement of the amounts paid for the doing of any part of said work. Immediately after the publication of the statement of the financial condition of any irrigation district within this state, required by section fourteen of this act to be made annually, the board of directors of said district shall cause a copy of said statement and a report stating the general condition of any works constructed or acquired by said district and whether or not the plan of irrigation adopted by the district is being successfully carried out and any other matters which the board may deem proper, to be forwarded to the state engineer, who shall examine said statement and report and make to said board such recommendations and comments as he may deem proper. The state engineer may at any time make or cause to be made an examination of the affairs of any irrigation district within this state or call upon the authorities of such district for such information as he may desire and make such report thereon as he may deem advisable. (Stats. 1913, p. 1000.)

Improvements to be paid for from construction fund.

SEC. 55. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for shall be wholly paid out of the construction fund; *provided, however*, that when any lands, waters, water rights or other property shall be acquired by the district by any lease or contract, under the terms of which the consideration or rental shall be payable in such installments that a like amount shall be payable in each year of the life of such lease or contract, then such rental or consideration shall be paid out of the funds derived from the levying of annual assessments, or from the collection of rates, tolls and charges fixed and collected as hereinafter provided for. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair and improvement of such portions of such canal and works as are completed and in use, including salaries of officers and employees, and installments of rental or consideration accruing under any lease or contract as hereinabove in this section mentioned, the board may in lieu (either in part or in whole) of levying assessments as herein provided for, fix rates of toll and charges, for irrigation and other public uses declared by this act, and collect the same from all persons using said canal for irrigation and other purposes. (Stats. 1911, p. 516.)

Hughson vs. Crane, 115 Cal. 404;

Mitchell vs. Patterson, 120 Cal. 286;

Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;

Wores vs. Imperial Irrigation District, 193 Cal. 609;

Danley vs. Merced Irrigation District et al., 43 Cal. App. Dec. 565.

Right of way.

SEC. 56. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security

for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, can not agree upon the amount to be paid therefor, or the points or the matter of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

McPherson vs. Alta Irr. Dist., 14 Cal. App. 353;
MacCannelly vs. Pioneer Irr. Dist. (Idaho), 105 Pac. 1076;
City of Nampa vs. Nampa, etc., Dist. (Idaho), 131 Pac. 8.

GOVERNING DIRECTORS.

Compensation of officers.

SEC. 57. The directors, when sitting as a board or acting under the orders of the board, shall each receive not to exceed six dollars per day and fifteen cents per mile for each mile actually traveled from his place of residence to the office of the board, and actual and necessary expenses paid while engaged in official business under the order of the board; *provided*, that in irrigation districts containing five hundred thousand acres or more the directors, in lieu of said per diem, shall each receive a salary of one hundred and fifty dollars per month. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; *provided*, that said board shall, upon the petition of at least fifty freeholders within such district therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder, which may include the salary or per diem to be paid to the directors. Such petition must be presented to the board not less than twenty days, nor more than forty days, prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act. (Stats. 1921, p. 1004.)

Directors not to be interested in contracts.

SEC. 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SPECIAL ASSESSMENTS.

Election on question of special assessment.

SEC. 59. The board of directors may at any time call a special election and submit to the qualified electors of the district the question whether a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes of this act or of any act supplementary hereto. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section thirty *d* of this act. The notice must specify the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used, and it may state that said assessment shall be levied in two or three annual installments and specify the amount of the installment to be levied in each year. At the special election the ballots shall contain the words "Assessment—Yes" or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall, at the time of the annual levy hereunder, levy a sum sufficient to raise the amount voted, or, if the notice of election shall have provided for levying said assessment in annual installments, the board of directors shall, at the time of the annual levy in each of the years specified in said notice, levy such assessment as shall raise the amount of the installment provided in said notice to be raised in said year; *provided, however*, that in case of an unexpected emergency by which the flow of water in the canal or other supply is interrupted, the amount of the indebtedness, incurred in the repair of the works of said district, caused by such interruption, not to exceed in any one year forty thousand dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided. (Stats. 1919, p. 668.)

Tregea vs. Owens, 94 Cal. 317;
Imperial Land Co. vs. Imperial Irr. Dist., 26 Cal. App. 529;
Imperial Land Co. vs. Imperial Irr. Dist., 166 Cal. 491;
Imperial Land Co. vs. Imperial Irr. Dist., 173 Cal. 660;
Imperial Land Co. vs. Imperial Irr. Dist., 173 Cal. 668;
McDonough vs. Cooper, 179 Cal. 384;
Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 732;
Danley vs. Merced Irr. Dist., 43 Cal. App. Dec. 565.

Rate of assessments, how ascertained.

SEC. 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum to be raised by the remainder of such aggregate assessed value. Special assessments shall be computed and entered by the secretary and collected as a part of the regular assessment levied hereunder, and, when collected, shall be paid into the district treasury

for the purpose or purposes specified in the notices calling the respective elections at which they were voted. (Stats. 1919, p. 669.)

McDonough vs. Cooper, 179 Cal. 384;
Stevens vs. Melville (Utah), 175 Pac. 602;
Ser-vis vs. Victor Valley Irr. Dist., 65 Cal. Dec. 329.

INCURRING INDEBTEDNESS.

Power to incur indebtedness restricted.

SEC. 61. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the levying of the first assessment, incur indebtedness in such sum or sums as shall amount to two thousand dollars, or, if the district shall contain more than four thousand acres, to one-half as many dollars as there are acres of land in the district, and may cause warrants of the district to be issued therefor, bearing interest at not more than seven per centum per annum, said rate to be fixed by the board of directors. Each such warrant shall be made payable on a date not later than the first day of July next after the first assessment in the district shall be levied, and if not paid when presented on the due date or thereafter shall be registered and the amount due thereon shall draw interest as provided in section sixty-one *a* of this act. Nothing contained in this section shall be construed as limiting the right of the board to enter into any contract or lease for any lands, waters, water rights or other property as elsewhere in this act authorized and by such lease or contract to bind the district for the payment of the consideration specified in such lease or contract, but if the smallest payment to be made under such lease or contract in any year exceeds an amount equal to ten cents an acre for all the land in the district, such lease or contract shall not be valid unless approved by the commission authorized by law to approve the bonds of irrigation districts as legal investments for savings banks, or unless an assessment sufficient to meet all the payments to become due under such lease or contract shall have been or shall be authorized for that purpose in accordance with section fifty-nine of this act. (Stats. 1921, p. 1110.)

Mitchell vs. Patterson, 120 Cal. 286, 293;
Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321;
Ser-vis vs. Victor Valley Irr. Dist., 190 Cal. 732;
N. P. Ry. Co. vs. John Day Irr. Dist. (Ore.), 211 Pac. 781;
Miller & Lux vs. Secara, 193 Cal. 755;
Danley vs. Merced Irr. Dist., 43 Cal. App. Dec. 565.

Warrants not paid to draw interest.

SEC. 61a. Whenever any warrant of the district payable on demand is presented to the treasurer for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by resolution of the board of directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment, other than warrants issued under the provisions of section sixty-one hereof, when funds of the district are not available to pay the same, the treasurer of the district shall endorse thereon the words "funds not available for payment," with the date of presentation and

shall specify the interest that such warrants shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date, be made and there is sufficient money available for such payments, the treasurer shall give notice in some newspaper published in the district, or, if none is published therein, then in some newspaper published in the county in which the district or any portion thereof is situated, or, if none is published in such county, then the treasurer shall post such notice conspicuously in the place in which the board of directors of the district holds its regular meetings, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors, as the case may be, and no further description of the warrants entitled to payment shall be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it, together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication or posting of said notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication or posting of said notice. The treasurer shall enter in the record hereinbefore required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person. (Stats. 1915, p. 1369.)

Carter vs. Tilghman, 119 Cal. 104-6.

Directors may purchase irrigation works.

Sec. 61b. The board of directors of irrigation districts may acquire, by purchase or condemnation, the irrigation system, canals and works through which lands in such districts have been or may be supplied with water for irrigation,¹ and may exchange bonds of such irrigation district for such system or canals or works or for any portion thereof, or for any interest therein or for the capital stock of any corporation owning such system or any portion thereof, upon such terms and conditions as the said board of directors may deem best. (Stats. 1917, p. 769.)

Exchange of bonds for property:

Stimson vs. Alessandro Dist., 135 Cal. 389;
Hughson vs. Crane, 115 Cal. 404;
Stowell vs. Rialto Dist., 155 Cal. 215;
Ham vs. Grapeland Dist., 172 Cal. 611;
Hooker vs. East Riverside Dist., 38 Cal. App. 615;
Rialto Dist. vs. Stowell, 246 Fed. 294, 297;
Baltes vs. Farmers Irr. Dist. (Nebr.), 83 N. W. 83;
Wyman vs. Searles (Nebr.), 128 N. W. 801;
O'Neil vs. Yellowstone Dist. (Mont.), 121 Pac. 283.

Validity of contract for exchange:

Kinkade vs. Witherop (Wash.), 69 Pac. 399;
Board of Directors vs. Peterson (Ore.), 128 Pac. 837.

¹The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

Determination of validity of bonds.

SEC. 61c. Where the board of directors of an irrigation district have exchanged bonds or have agreed to exchange bonds for property rights in any irrigation system or works or for any interest therein under the provisions of section sixty-one *b* of this act, the court shall, in any proceeding brought under the provisions of the last section, by its decree determine the validity of all bonds issued or to be issued under any contract or contracts for the exchange of bonds for property interests and by its decree shall determine whether the bonds provided for in said contracts, when delivered to the person or corporation entitled thereto under the terms of any such contract, shall constitute valid obligations of said irrigation district as against all persons. (Stats. 1915, p. 1291.)

GOVERNING THE USE OF WATER.

When the volume of water is insufficient.

SEC. 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

Full capacity of ditches.

SEC. 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

SEC. 64. Repealed Stats. 1917, p. 915.

Right of eminent domain.

SEC. 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

See Const. Art. I, Sec. 14, page 9 hereof;
Tormey vs. Anderson-Cottonwood Irr. Dist., 35 Cal. App. Dec. 676.

EXEMPTION FROM TAXATION—CREATION OF FUNDS.

Exemption of property from taxation.

SEC. 66. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district shall not be taxed for state and county or municipal purposes.

Constitution of California, Sec. 1, Art. XIII;
Reclamation Dist. vs. County of Sacramento, 134 Cal. 477;
Turlock Irr. Dist. vs. White (Cal.), 198 Pac. 1060.

Funds created.

SEC. 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: bond fund, construction fund, general fund.

Hughson vs. Crane, 115 Cal. 404, 414;
Buschmann vs. Turlock Irr. Dist., 47 Cal. App. 321.

Unexpended money.

SEC. 67a. Whenever an object for which money has been specifically provided by assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, the same shall in the discretion of the board of directors be transferred to the general fund and thereafter be available for any of the purposes of this act. (Stats. 1917, p. 769.)

GENERAL PROVISIONS.**Action to determine validity of bonds.**

SEC. 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a proceeding *in rem*, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the supreme court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

Crall vs. Poso Irr. Dist., 87 Cal. 140;
Board of Directors vs. Tregea, 88 Cal. 334;
In re Madera Irr. Dist., 92 Cal. 296;
Rialto Irr. Dist. vs. Brandon, 103 Cal. 384;
Cullen vs. Glendora Water Co., 113 Cal. 805;
In re Central Irr. Dist., 117 Cal. 382;
People vs. Linda Vista Irr. Dist., 128 Cal. 477;
People vs. Perris Irr. Dist., 132 Cal. 289;
People vs. Perris Irr. Dist., 142 Cal. 601;
Western Union Tel. Co. vs. Modesto District, 149 Cal. 662-6;
Fogg vs. Perris Dist., 154 Cal. 209;
Haese vs. Heitzig, 159 Cal. 569;
In re Bonds of S. San Joaquin Irr. Dist., 161 Cal. 345;
Imperial Water Co. vs. Supervisors, 162 Cal. 14;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 660;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 668;
Black Canyon Irr. Dist. vs. Fallon (Idaho), 122 Pac. 850;
Petition of Board of Directors Unit District (Ore.), 178 Pac. 186-8;
Gray vs. Cardiff Irr. Dist., 51 Cal. App. 304;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
Miller & Lux vs. Secara, 193 Cal. 755.

Assessment payer may bring action.

SEC. 69. If no such proceedings shall have been brought by the board of directors, then, at any time within thirty days after the levy

of any assessment or issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

Sechrist vs. Rialto Irr. Dist., 129 Cal. 640;
Henry vs. Vineland Irr. Dist., 140 Cal. 376;
Western Union Tel. Co. vs. Modesto Dist., 149 Cal. 662-6;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 660;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 668;
Gray vs. Cardiff Irr. Dist., 51 Cal. App. 304;
Miller & Lux vs. Board of Supervisors, 189 Cal. 254;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
Müller & Lux vs. Secara, 193 Cal. 755.

Consolidation of actions.

SEC. 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Imperial Land Co. vs. Imperial Dist., 173 Cal. 660.

Courts must disregard errors, etc.; rules of pleading.

SEC. 71. The court hearing any of the contests herein provided, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing, or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

Palmdale Irr. Dist. vs. Rathke, 95 Cal. 538;
Board of Directors vs. Abila, 106 Cal. 365;
Imperial Land Co. vs. Imperial Dist., 173 Cal. 660.

Contests.

SEC. 72. No contest of anything or matter herein provided shall be made other than within the time and manner herein specified, and in any such action all findings of facts or conclusions of said board of directors, or of the board of supervisors upon all matters shall be conclusive, unless such action was instituted within six months after such finding or conclusion was made. (Stats. 1915, p. 1370.)

Imperial Land Co. vs. Imperial Dist., 173 Cal. 660;
Miller & Lux vs. Board of Supervisors, 36 Cal. App. Dec. 770;
Miller & Lux vs. Board of Supervisors, 189 Cal. 254;
Miller & Lux vs. Madera Irr. Dist., 64 Cal. Dec. 94;
N. P. Ry. Co. vs. John Day Irr. Dist. (Ore.), 211 Pac. 781;
Miller & Lux vs. Secara, 193 Cal. 755.

Penalty for violation of duty.

SEC. 73. For any wilful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment payer of the district; but no officer of an irrigation district shall be personally liable for any damage resulting from the operations of the district or from the negligence or misconduct of any of its officers or employees unless such damage was proximately caused by the officer's own negligence or misconduct or by his wilful violation of official duty. (Stats. 1921, p. 849.)

Kerr vs. Superior Court, 130 Cal. 183.

Applicability of Sec. 165 of the Penal Code:

People vs. Turnbull, 93 Cal. 630.

As to recall, see section 28½ of this act.

Whiteman vs. Anderson-Cottonwood Irr. Dist., 40 Cal. App. Dec. 9.

EXCLUSION OF LANDS.

Boundaries may be changed to exclude lands.

SEC. 74. The boundaries of any irrigation district now organized or hereafter organized under the provision of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

Board of Directors vs. Tregea, 88 Cal. 334-356;
Herring vs. Modesto Dist., 95 Fed. 705.

Petition of owners for exclusion of land.

SEC. 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

Harelson vs. South San Joaquin Irr. Dist., 20 Cal. App. 324.

Publication of filing of petition; contests of notice.

SEC. 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

Harelson vs. South San Joaquin Irr. Dist., 20 Cal. App. 324.

Hearing of petition; failure to show cause deemed assent.

SEC. 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

Harelson vs. South San Joaquin Irr. Dist., 20 Cal. App. 324.

Power of board to exclude land from district.

SEC. 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interest of the district that the lands, or some portion thereof, mentioned in

the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; *provided*, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom, which can not be irrigated from, or which are not susceptible to, irrigation from a common source or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands in said district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works; *provided*, that no land irrigated by means of water, pumped from an underground source or sources shall be entitled to exclusion from any irrigation district on account of being so irrigated, if it shall be shown that such land is or will be substantially benefited by subirrigation from the works of said district or by drainage works provided or required by law to be provided by said district, but no owner of land in any irrigation district shall be required to pay any assessment, except for the payment of interest and principal due on bonds of the district, on any land in such district which, when the district was organized, was irrigated by means of water pumped from an underground source or sources and has continued each year to be irrigated exclusively by such means. (Stats. 1915, p. 836.)

Harelson vs. South San Joaquin Irr. Dist., 20 Cal. App. 324;
Board of Directors vs. Tregea, 88 Cal. 334;
Miller & Lux vs. Secara, 193 Cal. 755.

Assent of bondholders; release from lien.

SEC. 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and

such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Change of boundaries to be recorded; organization not affected.

SEC. 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Office of director of excluded division declared vacant.

SEC. 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Division of district.

SEC. 82. In case land is excluded from any district, the board of directors thereof, if they deem it desirable, but not less than thirty days before any election in such district, may reestablish the boundaries of the divisions and election precincts within such district. (Stats. 1921, p. 860.)

Rights of guardian, administrator or executor.

SEC. 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Lands excluded not released from liabilities for indebtedness.

SEC. 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; *provided*, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

INCLUSION OF LANDS.**Boundaries may be changed to include lands.**

SEC. 85. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

Gray vs. Cardiff Irr. Dist., 51 Cal. App. 304.

Procedure for inclusion of lands.

SEC. 86. The holder or holders, of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands.

The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

People vs. Cardiff Irr. Dist., 51 Cal. App. 307;
Gray vs. Cardiff Irr. Dist., 51 Cal. App. 304.

Notice of filing of petition.

SEC. 87. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

Hearing of petition.

SEC. 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Condition precedent.

SEC. 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that

the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

Nile Irr. Dist. vs. G. S. Co., 248 Fed. 861.

Change in boundaries.

SEC. 90. If the board of directors deem it for the best interest of the district that the boundaries of the district be changed as proposed and if no protest against such change is made as provided in section ninety-one of this act, or if such protest be made and enough signatures be withdrawn therefrom so that said protest is no longer sufficient, the board shall order that the boundaries of the district be changed so as to include therein the lands described in said petition, or such portion thereof as the board shall find will be benefited by such inclusion. The order shall describe the boundaries as changed and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundaries as is deemed necessary; *provided, however*, that any public land of the United States of America adjoining the boundaries of any irrigation district may be included within the boundaries of any such irrigation district by order or resolution of the board of directors of such district without any petition being filed asking for such inclusion; *and provided, further*, that when additional land is included within any irrigation district and the board of directors of such district finds either that such inclusion without condition would work an injury to the land already in the district, either by an impairment of water rights or by requiring a greater expense for furnishing water to the lands proposed to be included, the board may prescribe conditions upon such inclusion of land, either by providing for priority of right to water or for the payment of an additional annual charge, or such other conditions as may to the board seem just. If such inclusion is upon petition of property owners, all such property owners shall sign and acknowledge an agreement with the district, specifying such conditions and describing the land so to be included. Such agreement must be recorded in the office of the county recorder of the county in which such lands are situated, together with a certified copy of the order including such lands, and thereupon such lands shall become a part of such irrigation district subject to such conditions. (Stats. 1921, p. 999.)

Resolution describing boundaries.

SEC. 91. If a protest against the inclusion of such lands, signed by not less than three per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, shall have been presented to the board of directors and upon the hearing of said matter said protest shall not be withdrawn, or after the withdrawal therefrom of any signatures it shall still be signed by not less

than three per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, or if the board of directors deem it not for the best interests of the district to include therein the lands described in said petition for inclusion, or any of them, the board shall adopt a resolution stating the facts and describing the boundary of the tract of land proposed to be included in the district; but before calling the election provided for in the next section, the board may require an undertaking, with sufficient sureties, from the petitioners for the inclusion of said land conditioned that the petitioners or the sureties will pay all the costs of holding such election in case such inclusion shall be denied. (Stats. 1921, p. 1000.)

Notice of election; ballots.

SEC. 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Majority vote to decide election.

SEC. 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Order of board to be recorded.

SEC. 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

Recording petition in minutes.

SEC. 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Rights of guardians, executors and administrators.

SEC. 96. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Redivision of district.

SEC. 97. In case land is included within any district as aforesaid, the board of directors thereof shall, but not less than thirty days before any election in such district, reestablish the boundaries of the divisions and election precincts within such district, so as to include such land therein and so as to make such divisions as nearly equal in size and population as may be practicable. In case of the inclusion of any land less than thirty days before an election within such district, the inhabitants of the land so included shall not be entitled to vote at such election. (Stats. 1921, p. 861.)

REDUCTION OF BONDED INDEBTEDNESS.**Election on question of reducing bonded indebtedness.**

SEC. 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

Notice of election; ballots.

SEC. 99. Notice of the said election shall be given in the same manner as provided in section thirty of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling places, as established, by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said

notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

Assent of bondholders.

SEC. 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section seventy-nine of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

LEASE OF WATER.

Authority of board to lease.

SEC. 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

Manner of procedure.

SEC. 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

Opening proposals.

SEC. 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

Rentals.

SEC. 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-

annually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

Length of lease; forfeiture.

SEC. 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

Bond of lessee.

SEC. 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

DESTRUCTION OF UNSOLD BONDS.

Election on question of destroying unsold bonds.

SEC. 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized, or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

Notice of election; ballots.

SEC. 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section thirty of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

Two-thirds majority required.

SEC. 108. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president

of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

SAVING CLAUSES.

Existing districts and existing rights not affected.

SEC. 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

Tulare Irr. Dist. vs. Collins, 154 Cal. 440-2;
Board of Supervisors vs. Thompson, 122 Fed. 860-2.

Name of district.

SEC. 109a. The name of any district hereafter organized hereunder shall contain either the words "irrigation district" or "water conservation district." Any district heretofore or hereafter organized and existing, the name of which shall include the words "irrigation district" may change its said name by substituting for the word "irrigation," "water conservation" by filing with the board of supervisors with which was filed the original petition for the organization of the district, a certified copy of a resolution of its board of directors adopted by the unanimous vote of all the members of said board at a regular meeting thereof providing for such change of name; and thereafter all proceedings of such district shall be had under such changed name, but all existing obligations and contracts of the district entered into under its former name shall remain outstanding without change and with the validity thereof unimpaired and unaffected by such change of name. (Stats. 1921, p. 1110.)

Effect on prior acts.

SEC. 110. Nothing in this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act, an act entitled an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes, approved March seventh, eighteen hundred and eighty-seven, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

Board of Supervisors vs. Thompson, 122 Fed. 860.

Time of taking effect.

SEC. 111. This act shall take effect from and after its passage and approval.

Title of act.

SEC. 112. This act may be referred to in any action, proceeding or legislative enactment as "the California irrigation district act." (Stats. 1919, p. 669.)

Constitutionality:

Act is constitutional.

Turlock Irrigation District vs. Williams, 76 Cal. 360;
Board of Directors vs. Tregea, 88 Cal. 334;
In re Madera Irrigation District, 92 Cal. 296;
In re Central Irrigation District, 117 Cal. 382;
Matter of Bonds of South San Joaquin Irrigation District, 161 Cal. 345;
Fallbrook Irrigation District vs. Bradley, 164 U. S. 112, 41 L. Ed. 369.

Public corporation:

Irrigation district is public corporation or *quasi* corporation.

Turlock Irrigation District vs. Williams, 76 Cal. 360;
Central Irrigation District vs. DeLappe, 79 Cal. 351;
Crall vs. Poso Irrigation District, 87 Cal. 140;
In re Madera Irrigation District, 92 Cal. 296;
People vs. Selma Irrigation District, 98 Cal. 206;
People vs. Turnbull, 93 Cal. 630;
Tulare Irrigation District vs. Collins, 154 Cal. 440;
Bettencourt vs. Industrial Accident Commission, 175 Cal. 559;
Turlock Irr. Dist. vs. White (Cal.), 198 Pac. 1060;
People vs. Cardiff Irr. Dist., 34 C. A. D. 451;
Lindsay-Strathmore Irr. Dist. vs. Superior Court, 182 Cal. 315.

Validity of organization:

May not be questioned by private party.

Miller vs. Perris Irrigation District, 85 Fed. 693.

Can not be attacked collaterally.

Quint vs. Hoffman, 103 Cal. 506;
Knuckles vs. New Sweden Irrigation District (Idaho), 101 Pac. 81;
Quinton vs. Equitable Investment Company, 196 Fed. 314;
Tulare Irrigation District vs. Shepard, 185 U. S. 1.

District may not plead the illegality of its own organization to defeat payment of bonds.

Herring vs. Modesto Irrigation District, 95 Fed. 705;

Tulare Irrigation District vs. Shepard, 185 U. S. 1.

Construction of act:

Act should be so construed as to effectuate its purpose to facilitate the economic and permanent reclamation of arid lands.

Jennison vs. Redfield, 149 Cal. 500;
Nampa and Meridian Irrigation District vs. Petrie (Idaho), 153 Pac. 425;
Colburn vs. Wilson et al. (Idaho), 132 Pac. 579.

2. CALIFORNIA WATER STORAGE DISTRICT ACT.

An act providing for the organization, operation, maintenance, and government of water storage districts, and for the acquisition, appropriation, diversion, storage, conservation, and distribution of water for irrigation of lands in such districts, for drainage and reclamation connected therewith, and for the generation, disposition, and sale of hydro-electric energy developed incidental to such storage and distribution; and for the acquisition of lands or rights therein and the acquisition, construction, operation, and maintenance of works to carry into effect the provisions of this act; and conferring upon the state engineer certain additional duties and powers in connection with the carrying out of the purposes of said act and providing for the appointment of directors to assist the state engineer in so doing and defining said duties and powers; and repealing the California irrigation act approved June 4, 1915, and all acts amendatory thereof.

(Approved June 3, 1921; Stats. 1921, p. 1727; amended Stats. 1923, p. 941.)

STATE ENGINEER.

State engineer, powers and duties of.

SECTION 1. The state engineer shall have the powers and duties in this act conferred upon him, in addition to the other powers and duties possessed by or imposed upon him by law, and shall also possess and exercise such further powers and authority as may be necessary to enable him to fully perform the duties imposed upon him by this act, including the employment of such engineers, attorneys, superintendents, inspectors, and other assistants as he may deem necessary, and the fixing of their compensation, which together with the cost and expense of all work done in connection with the performance of such duties under this act shall be paid by the districts to be formed hereunder as hereinafter provided for payment of other expenses of the district.

Constitutionality of act established.

Tarpey vs. McClure, 190 Cal. 593;
Wores vs. Imperial Irr. Dist., 193 Cal. 609.

Executive directors, appointment, powers and duties of.

SEC. 2. For the purpose of facilitating and expediting the performance of the duties in this act imposed upon the state engineer and to provide against interference with the performance of the other duties imposed upon him by law, and to provide for the equalization of assessments in this act provided for, the governor shall within thirty days after the date upon which this act takes effect name and designate two persons to be known and hereinafter referred to as executive directors, one of whom shall have at least five years' practical experience in irrigation and the other of whom shall have had at least five years' experience in administration and both of whom shall be residents of this state

and continue to be such residents during their term of office, which term shall be four years, and until their successors have been named and have qualified. Their successors shall be named and designated in like manner. Each of said executive directors shall receive as compensation the sum of twenty dollars per day for each day employed by him in the performance of duties under this act, and shall receive actual traveling expenses while engaged in such duties, which shall be chargeable as a part of the cost of the project of the district for which such duties are performed. The powers and duties herein conferred and imposed upon the state engineer may be exercised by said executive directors under the direction of the state engineer.

ORGANIZATION OF WATER STORAGE DISTRICT.

Who may propose organization of district.

SEC. 3. A majority in number of the holders of title or evidence of title to lands already irrigated or susceptible of irrigation from a common source and by the same system of storage and irrigation works and representing a majority in value of said lands may by written petition propose the organization of a water storage district under the provisions of this act which shall comprise lands so irrigated or susceptible of irrigation and may include therein lands situated in other distinctive district agencies of the state including other water storage districts having different plans and purposes and the object of which is not the same; organization of such a district under the provisions of this act may also be proposed by written petition signed by not less than five hundred petitioners who are holders of title or evidence of title to lands therein; *provided*, that the said petitioners must include the holders of title or evidence of title to not less than ten per cent in value of the lands within said proposed district. Such lands proposed to be organized into a water storage district need not consist of contiguous parcels (Stats. 1923, p. 941.)

Tarpey vs. McClure, 190 Cal. 593.

Petition to organize district.

SEC. 4. In order to propose the organization of a water storage district, a petition signed as provided in the preceding section setting forth generally the boundaries of the proposed district or describing the lands situated therein, and the location proposed for the storage of water to be used for such irrigation, any drainage or reclamation connected therewith, and any incidental development of hydro-electric energy, and the nature of the proposed works, and praying that the territory embraced within said proposed district may be organized as a water storage district under the provisions of this act, shall be presented to the state engineer. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the state engineer, in double the amount of the probable cost of organizing such district as estimated by said state engineer, conditioned that the sureties shall pay all of said costs in case said organization shall not be finally effected, and said state

engineer shall have power to require the furnishing of any additional undertaking, or undertakings, or payments of money, in case he should deem the same necessary. Upon the presentation and filing of said petition and undertaking in the office of the said state engineer the said engineer shall forthwith fix a time and place at which he will hear said petition, which place shall be either the office of the state engineer at Sacramento or some place within the county, or one of the counties, within which any portion of the lands of said proposed district are situated and which time shall be not less than thirty nor more than sixty days after the presentation and filing of said petition. Said petition, together with a notice stating the time and place of the hearing so fixed by said engineer, shall be published in each county in which any of the lands of said proposed district are situate by said state engineer once a week for three successive weeks before said hearing. Said notice shall be issued by said state engineer, shall refer to said petition, and shall be directed to the persons named as petitioners therein, and to all other persons holding title or evidence of title to any lands included within the water storage district proposed in said petition, and to all other persons who may be interested in or affected by the project contemplated in said petition, and shall be substantially in the following form:

Before the state engineer, State of California.

To the persons named as petitioners in the foregoing petition, to all persons holding title or evidence of title to lands included within the water storage district proposed therein; and to all other persons who may be interested in or affected by the project contemplated in said petition:

You, and each of you, are hereby notified that the foregoing petition was filed with the state engineer on the _____ day of _____, _____, and will be heard by said engineer at _____ on the _____ day of _____, _____, at the hour of ____ m. of that day, at which time and place said engineer will hear and receive evidence in support of said petition or any objections which may be presented thereto, and will hear and determine the right of all parties holding title or evidence of title to lands not included in the water storage district proposed in said petition, but which lands are already irrigated or susceptible of irrigation from the same common source and by the same system of storage and irrigation works as are particularly referred to and described in said petition, to have said lands included in said district.

This notice is given pursuant to the provisions of an act, approved June 3, 1921, and known as California water storage district act, to which said act particular reference is hereby made.

Dated _____

State Engineer.

When contained upon more than one instrument one copy only of said petition need be published but the names attached to all said instruments must appear in such publication. Signatures to the petition may

be withdrawn at any time before the publication is commenced as in this section required, by filing a declaration signed by the petitioner, with the state engineer, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. (Stats. 1923, p. 942.)

Hearing on petition.

SEC. 5. At the time and place fixed in said notice the state engineer shall proceed to hear said petition and to determine whether or not the same complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding thirty days in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, and no lack of signatures thereto, or to the petition as published, shall vitiate any proceedings thereon; *provided*, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of said engineer shall be expressed by an order establishing the facts. If said state engineer shall determine that any of the requirements hereinbefore set forth have not been complied with the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the state engineer shall determine that all the said requirements have been complied with the said engineer shall forthwith proceed to hear said petition and all evidence offered in support of the petition and in support of said written objections, and the written application of any holder of title or evidence of title to lands included in said proposed water storage district, to have said lands excluded therefrom, and to also receive the written application of the holder of title or evidence of title to other lands already irrigated or susceptible of irrigation from the common source and by the same system of storage and irrigation works in said petition more particularly referred to and described, to have said lands included in said district and to participate in the benefits of such water storage district. Said engineer shall ascertain and determine the practicability, feasibility, and utility of the proposed project set forth in said petition, and for that purpose may make, or cause to be made, all necessary studies, examinations, surveys, plans, and estimates of cost, and in connection therewith said state engineer may employ all necessary engineers, attorneys, and other assistants, or acquire and use estimates, surveys, and reports theretofore made, for the accomplishment of said purposes, and the cost thereof shall not in the aggregate exceed a sum in dollars equal in amount to one-fourth the number of acres in such proposed district and shall be deemed a part of the expense of said project, and said state engineer may require the same to be paid by the proponents of said district or may issue warrants therefor and which payment and

warrants shall be considered and treated in all respects as warrants of the district and which shall be payable out of the funds of said district when the organization thereof has been completed, and the same, if necessary, may be included in any bond issue authorized for the purposes of said district. If said district shall, as a result of any election hereinafter provided for, be not organized, any warrants issued by said state engineer or board of directors of said district upon the funds of the district shall be a charge upon the undertaking, or undertakings, hereinbefore and in section four of this act provided for, and shall thereupon become due and payable by the sureties therein named, and the holders of said warrants shall have a cause of action against said sureties thereon. (Stats. 1923, p. 943.)

Not attempted delegation of legislative or judicial power.
Tarpey vs. McClure, 190 Cal. 593.

Order on petition.

SEC. 6. Upon the final hearing of said petition the state engineer shall make an order reaffirming his conclusions as to the genuineness and sufficiency of the petition, affirming the regularity and sufficiency of the notice of hearing thereon, and determining the practicability, feasibility, and utility of the proposed project. The said engineer shall also in his said order establish the boundaries of the proposed district or describe the lands included therein, specify the location proposed for the storage of water to be used for any of the purposes of this act, and provide an estimate of the probable cost of the proposed project. The said state engineer shall also in his said order divide said proposed district into five, seven, nine, or eleven divisions in such manner as to segregate into separate divisions lands possessing the same general character of water rights or interests in and to the waters of such common source, which divisions shall be numbered first, second, third, fourth, and fifth, and sixth, seventh, eighth, ninth, tenth, or eleventh, according to the number of such divisions. The order of said state engineer, made as in this section provided, shall be signed by him and entered in full upon the records kept by him. A copy of such order certified by said state engineer, together with a map showing the exterior boundaries of the district and indicating the lands if any excluded therefrom, shall forthwith be filed for record in the office of the county recorder of each county in which any of the lands within the said district are situated. The finding of said state engineer in favor of the genuineness and sufficiency of the petition and the regularity and sufficiency of the notice of hearing thereon shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general. Any such suit must be commenced within ninety days after the date of first filing in the office of any county recorder of such certified copy of said order as hereinabove required. (Stats. 1923, p. 945.)

Authority of state engineer.
Tarpey vs. McClure, 190 Cal. 593.

Election on organization.

SEC. 7. Said state engineer shall, within sixty days after the filing of said order, give notice of an election to be held in the proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, or the lands so included, and the divisions so created, and shall designate a name for the proposed district, and said notice shall be published once a week for at least three weeks previous to such election in each county in which any land in the proposed district is situated. Such notice shall require ballots to be cast which shall contain the words "Water storage district—Yes" or "Water storage district—No," or words equivalent thereto, and also the names of persons to be voted for at said election. For the purposes of said election the state engineer must establish a convenient number of election precincts in said proposed district and define the boundaries thereof and at least one such precinct must be established for each division of said district and said state engineer, at the time of calling said election, shall in his order designate voting places and appoint three landholders of the district to act as a board of election at each voting place. Such election shall be conducted as nearly as practicable in accordance with the general water storage district election as in this act provided, but no particular form of ballot shall be required. Nominating petitions for officers to be elected at such election shall be filed as provided in section thirty-nine of this act except that the same shall be filed in the office of the state engineer.

Tarpey vs. McClure, 190 Cal. 593.

Election of directors.

SEC. 8. At such election there shall be elected a board of directors corresponding in number to the number of divisions in the district, and a treasurer. None of said directors shall be elected by the district at large, but one director shall be elected by each division to represent such division. Said officers shall qualify in the same manner as is provided for the qualification of the same officers elected at a general water storage district election as hereinafter in this act provided.

Qualification of voters.

SEC. 9. Only the holders of title or evidence of title to lands situated within the district shall be entitled to vote at such election, and every such holder of title or evidence of title shall be entitled to vote, in person or as hereinafter provided, in each precinct in which any of the lands so owned by him are situated and to cast one vote for each one hundred dollars', or fraction thereof, worth of land in said precinct so owned by him. Each male or female voter over the age of twenty-one years shall be entitled to vote in person or by proxy. Any guardian, administrator, or executor of a person or estate owning land within the district shall be considered the holder of title or evidence of title to such lands for the purposes of this act, where the owner in fee

is not entitled to vote. Any corporation holding title or evidence of title to lands within the district shall be entitled to vote as such land owner through any officer or agent thereunto duly authorized in writing under the seal of the corporation. Entrymen upon public lands situated within the district shall be considered as the holders of title or evidence of title to such lands for the purposes of this act. No person shall vote by proxy unless his authority to cast such vote shall be evidenced by an instrument in writing duly acknowledged and certified in the same manner as grants of real property and filed with the board of election. The provisions of this act relating to general elections shall, except as herein otherwise specifically provided, apply to elections on organization of any water storage district under this act. (Stats. 1923, p. 945.)

Canvass of votes.

SEC. 10. The state engineer shall on the second Monday succeeding such election proceed to canvass the votes cast thereat and if upon such canvass it appears that a majority of all the votes cast are "Water storage district—Yes" said engineer shall, by an order entered in the records kept by him, declare the territory duly organized as a water storage district under the name heretofore designated, and shall declare the candidate for director receiving at such election the highest number of votes in each division to be duly elected a director, and the candidate for treasurer receiving the highest number of votes in the district to be duly elected treasurer. If upon such canvass it appears that a majority of all the votes cast are "Water storage district—No," then the result of such election shall be declared accordingly and entered of record in the records kept by the state engineer.

Order on election, filing of.

SEC. 11. If such order on election shall declare the territory duly organized as a water storage district the said state engineer shall forthwith cause a copy of such order, duly certified, to be filed for record in the office of the county recorder of each county in which any portion of the lands embraced in such district is situated, and from and after such filing the organization of such district shall be complete and said district shall have the powers and rights conferred upon it by the provisions of this act. Said state engineer shall at the same time issue certificates of election to the persons declared in said order to be elected directors and treasurer.

ORGANIZATION OF BOARD OF DIRECTORS AND REPORT OF BOARD ON PROJECT.

Board of directors, tenure of office.

SEC. 12. The directors and treasurer elected at such election, after qualifying by receiving their certificates of election and subscribing the official oath and giving the required bonds, shall immediately enter

upon their duties and shall hold office, respectively, until their successors are elected and qualified.

Board of directors, organization of.

SEC. 13. The directors shall on the first Tuesday after their election and qualification meet and organize as a board and select and designate an office of the board, which shall also be the office of the district, at which the board shall thereafter hold its meetings. The board shall then proceed to classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire on the first Tuesday in March following the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate on the first Tuesday in March following the next general February election thereafter. After such classification the board shall elect a president from their number and shall appoint a secretary, each of whom shall hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board.

Board of directors, meetings of.

SEC. 14. The board of directors shall thereafter hold regular meetings on the first Tuesday of each month at the place selected as the office of the board; *provided*, that such board may by resolution duly entered upon its minutes fix any other time or place for the regular monthly meeting, but no such change shall become effective until after the resolution making such change shall have been published once a week for two successive weeks in the county in which the office of the board of directors is located. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days notice thereof must be given by the secretary to each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and a majority shall constitute a quorum for the transaction of business. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours.

Board of directors, complementary powers and duties of.

SEC. 15. The board of directors shall have in addition to the powers and authority hereinbefore and hereinafter conferred upon it, such further powers and authority as may be necessary to enable it to fully perform the duties imposed upon it by this act.

Provisions for defraying preliminary expenses.

SEC. 16. The board of directors must and shall at its first regular monthly meeting levy an assessment of an equal amount upon each acre of land in said district sufficient to pay all warrants issued by the state engineer in accordance with the provisions of this act, and in addition thereto an amount sufficient in the judgment of said board to defray all other expenses incurred or to be incurred by or for the benefit of said district prior to the appointment of the commissioners provided for in section nineteen of this act. In the event the assessment so levied for the purposes aforesaid shall not be sufficient, it shall be the duty of the board of directors to levy an additional assessment, or assessments; thereafter if it shall become necessary to provide funds for the payment of any expense incurred by or on behalf of the district subsequent to the appointment of said commissioners and prior to the assessment provided for in section nineteen of this act, the board of directors shall levy such additional assessment, or assessments, of an equal amount upon each acre of land in said district as may be necessary to pay such expenses; *provided, however*, the total of all such assessments exclusive of the amount assessed to pay all warrants issued by the state engineer shall not exceed fifty (50) cents per acre. Said assessment, or assessments, so levied shall constitute a lien upon the lands affected thereby until the full amount thereof is paid, which lien shall be prior to all other liens except state, county, and municipal taxes and assessments or taxes levied or assessed by or under statutory authority, and shall be collected in the same manner as other assessments provided for in this act. (Stats. 1923, p. 946.)

Original section constitutional.
Tarpey vs. McClure, 190 Cal. 593.

Board of directors, preparation and submission of report of.

SEC. 17. The board of directors shall, upon the organization of a water storage district as in this act provided, proceed to make or cause to be made, all such examinations, surveys, detailed plans and specifications, and estimates of costs for the acquisition, appropriation, diversion, storage, conservation, and distribution of water, any drainage or reclamation works connected therewith, and the generation of hydroelectric energy incident thereto, and the sale and distribution thereof, as may be necessary or requisite to enable said board of directors to ascertain and estimate the requirements and works necessary as aforesaid for the purposes of said water storage district and the probable cost and expense thereof, and to make a report thereof as hereinafter provided. In such connection said board may use and adopt all previous estimates, surveys, reports, and other data it may have acquired or which are available to it adapted to that purpose, and may employ all necessary engineers, attorneys, and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project, and such board may issue warrants therefor, which shall be payable out of the funds of said district

and may be included in any bond issue authorized for the purposes of said district.

Upon the completion of said examination and study of the proposed project by the said board of directors, the said board shall prepare and file in the office of the state engineer a report thereof, in which said report shall be set forth in full and in detail the character and nature of the proposed works, a description of the rights, both to waters and lands, it will be necessary to acquire to carry said project to completion, accompanied by detailed plans and specifications, and a detailed estimate of the costs of said project, including the acquisition of all rights necessary to the completion and operation thereof. The board of directors shall attach to said report a recommendation that said project shall be carried out in accordance with the plans and specifications in said report contained, or that said project be abandoned. Such report when completed shall be signed by a majority of the board of directors and entered in full upon the minutes of said board. A copy of such report certified by the secretary of said board of directors shall be filed in the office of the state engineer.

PROCEEDINGS OF STATE ENGINEER SUBSEQUENT TO REPORT OF BOARD OF DIRECTORS.

Action on adverse report.

SEC. 18. If the said board of directors recommends that said project be abandoned the state engineer shall make such further investigation of said project as is in his judgment desirable and shall within sixty days after the filing of said report make and enter upon the records kept by him an order either (a) approving and confirming the said report and recommendation and declaring said project abandoned, which said order shall be without prejudice to the presentation of another petition covering the same matter, or (b) approving and adopting the said report but taking no action with respect to the said recommendation, and calling another election to be held in the district for the purpose of determining whether or not the recommendation of said board of directors shall be adopted or rejected. In the event the said order so made and entered by the state engineer shall call an election, said state engineer shall within thirty days after the entry of said order give notice of such election. Said notice shall be published once a week for at least three weeks previous to such election in each county in which any land in the district is situated: Said notice shall require ballots to be cast, which shall contain the words "Completion of project—Yes" or "Completion of project—No." For the purposes of said election the state engineer must establish a convenient number of election precincts in said district and define the boundaries thereof and said state engineer at the time of calling said election shall in his order designate voting places and appoint three land holders of the district to act as a board of election at each voting place. Such election shall be conducted as nearly as practicable in accordance with the

provisions of this act relating to general water storage district elections, but no particular form of ballot shall be required. The qualification of voters at said election shall be the same as prescribed for the original election on organization of district, and the votes cast at said election shall be canvassed in the same manner as votes cast at said original election, and the result of such election shall be declared and entered of record in the minutes of the board. If such result shall show a majority of all the votes cast are "Completion of project—No," the state engineer shall make and enter in his records an order declaring said project abandoned, and requiring all persons, except the holders of warrants issued pursuant to the provisions of this act and which have been duly presented for payment, having claims against said district, or proposed district, to file them with the necessary vouchers within three months from the making of said order in the office of said state engineer. Notice of said order requiring presentation of claims stating the time and place thereof shall be published in the county in which the office of the district is located by said state engineer once a week for four successive weeks, the first publication of which said notice shall be made within ten days after the making of said order. After all warrants issued under the provisions of this act which have been duly presented for payment and all claims that have been duly presented and have been allowed and approved by said state engineer or the board of directors of said district, have been paid, said state engineer shall forthwith cause a copy of said order declaring said project abandoned, duly certified by said state engineer, to be filed for record in the office of the county recorder of each county in which any portion of the land embraced in said district is situated, and from and after such filing said district shall be deemed dissolved and all liens which may have attached to any of the lands therein under any provisions of this act shall be discharged and any undertaking given pursuant thereto shall be annulled and of no further effect. If the canvass of the votes cast at such election show a majority of all votes cast are "Completion of project—Yes" said state engineer shall thereupon appoint the commissioners provided for in section nineteen of this act and thereafter such proceedings shall be taken and followed as are provided in said section nineteen and subsequent sections of this act.

Tarpey vs. McClure, 190 Cal. 593.

Action on favorable report, assessment of project cost by commissioners, and review thereof by adjustment board.

SEC. 19. If the board of directors recommends that said project be carried out in accordance with the plans and specifications in its said report contained and if within sixty days after the filing of said report in the office of the state engineer there shall be presented to and filed with said state engineer a petition signed by the owners of more than fifteen per cent of the total assessed valuation of the land in the district requesting that an election be held to ascertain whether such recommendation of the board of directors shall be adopted, the state engineer shall immediately give notice of such an election, which election shall

be held and conducted and the result thereof determined and declared in all respects as provided in section eighteen of this act, and if the result of such election shows a majority of all votes cast are "Completion of project—No" the project shall be deemed abandoned and proceedings shall be thereafter taken as provided in said section eighteen in case of abandonment, but if no petition shall be filed as aforesaid or if an election be held and the majority of the votes cast thereat are "Completion of project—Yes" then the state engineer shall forthwith appoint three commissioners whose duty it shall be to assess the cost of the project, upon the benefited lands within the district which shall be done, and the said cost shall be apportioned in accordance with the benefits that will accrue to each tract of land held in separate ownership in said district by reason of the expenditures of said sums of money, and the completion of the project, such assessment to be in gold coin of the United States; *provided, however,* that where any such tract of land consists of more than one section such apportionment to such tract of land shall be made according to legal subdivisions thereof or to other boundaries sufficient to identify the same in subdivisions not greater than one section in area, but any failure or defect in complying with this requirement shall not invalidate said apportionment or said assessment. One of said commissioners shall be a civil engineer and one shall have a practical knowledge of irrigation, and none of said commissioners shall have any interest in any land in the district either directly or indirectly, and each commissioner before entering upon his duties shall take and subscribe an oath that he is not in any manner interested directly or indirectly in any land in the district and that he will perform the duties of commissioner to the best of his ability, and said commissioners shall be paid as compensation for the services rendered by them such sum, or sums, as the state engineer shall fix and determine, which shall be considered a part of the cost of the project, and said state engineer may issue warrants therefor, which shall be payable out of the funds of said district and may be included in any bond issue authorized for the purposes of said district. The said commissioners shall receive from the board of directors of the district the detailed plans, specifications, and estimate of the costs of the project, which have theretofore been duly approved by the state engineer. The said commissioners shall thereupon prepare and certify to the state engineer in triplicate rolls which shall contain:

- (1) A description of each tract assessed held in separate ownership by legal subdivisions, governmental surveys, or other boundaries sufficient to identify the same;
- (2) The number of acres in each tract;
- (3) The name and address of the owner of each tract, if known, and if unknown, that fact, but no mistake or error in the name of the owner or supposed owner of the property assessed, and no mistake in any other particular, shall render the assessment thereof invalid;
- (4) The rate per acre of such assessment upon said tract;
- (5) The total amount of the assessment as computed;
- (6) Any other statement which may be required by the state engineer and as to which notice is given in writing to the commissioners at the

time of transmitting the plans and specifications and costs of the work for the district beforementioned.

The rolls shall be separately made for lands lying within different counties contained within said district. Said rolls when completed shall be accompanied by the written report of the commissioners wherein is set out with particularity the exact nature and quantum of the benefits so assessed, both in respect of the right in and to stored surplus waters, and the right to store water in the reservoir or reservoirs of the district, apportioned and allocated to each such tract of land in said district and also through any drainage or reclamation work connected therewith. In such report lands embraced within a comprehensive area or a political subdivision of the state may be referred to generally as lands lying within such area or subdivision without further description.

In the event of the conveyance of a part of a tract of land in said district and in the absence of any provisions in the instrument conveying the same, said lands so conveyed shall be deemed to share ratably in the benefits apportioned to the entire tract.

Said rolls when completed shall be duly certified by said commissioners and forthwith by them filed in the office of the state engineer. Said state engineer shall forthwith transmit two copies of said rolls to the board of directors of said district, who shall file one copy in their records and thereupon transmit to the county treasurer of each county within such district that portion of the roll relating to the lands within such county. Thereafter the executive directors and the president of the board of directors of the water storage district in which the lands described in said rolls are situated shall become and constitute a board, in the nature of a board of equalization, which shall be known and designated as the "adjustment board" and whose functions shall be to consider and act upon objections, if any, presented as herein provided to the assessment made by said commissioners. For that purpose said adjustment board shall at once organize by the election from its members of a president and a secretary and shall thereupon appoint times and places not less than thirty days after said rolls have been filed in the records of said board of directors when and where it will meet within each county wherein lands of said district are situated for the purpose of hearing objections to said assessments, and notice of such hearing shall be published at least once a week for two successive weeks in each county in which any land within said district may be situate. Said objections, if any, must be in writing verified and filed with the state engineer, and shall set forth the grounds of such objections. Such verification shall be made by the affidavit of the objector or some other person who is familiar with the facts. Said adjustment board may postpone such hearings from time to time. At such hearings the adjustment board shall hear such evidence as may be offered touching the correctness of such assessment, and may modify, amend, or approve the said assessment in any particular and may reapportion the whole or any part thereof; *provided, however,* that no assessment shall be increased except after personal notice or notice by registered mail given to the owner if known by depositing in the postoffice at the place in

which the office of said district is located in a sealed envelope addressed to each of such owners at his last known, if any, place of residence or business otherwise at the county seat of the county in which any portion of his lands are situated, with full postage paid, at least two weeks before said hearing, or if unknown by publication at least once a week for two successive weeks in the county in which said land in the district may be located, and upon a hearing of objections thereto if made.

Said adjustment board, after said hearings, must make an order approving such assessment as finally fixed or modified, which order shall be filed with and entered in the records of the state engineer, and the apportionment and determination of said adjustment board shall be final and conclusive, and no action or defense shall ever be maintained attacking the same in any respect. Two copies of said assessment roll as finally fixed and approved by the adjustment board shall be forthwith certified by the secretary of such adjustment board and transmitted to the board of directors of the said district, who shall file one copy in their records and thereupon immediately transmit to the county treasurer of each county within such district that portion of the roll relating to the lands within such county, together with a copy of the order of approval of such assessment roll by said adjustment board. Thereafter said assessment roll shall be conclusive evidence before any court or tribunal that said assessment has been made and levied according to law.

When the board of directors shall file with the county treasurer of a county within such district the said assessment list or roll as finally approved as hereinbefore provided the charges assessed thereby upon the several tracts of land within the county shall constitute a lien thereon which shall be prior to all other liens except state, county, and municipal taxes, and assessments or taxes levied or assessed by or under statutory authority, and shall impart notice thereof to all persons. Where bonds of such district have been issued upon any such assessment no act or conduct on the part of such board of directors, or any officer herein mentioned, shall invalidate any such assessment after the same shall have become a lien in the manner herein provided. (Stats. 1923, p. 946.)

Hearing as to benefits.

Fallbrook Irr. Dist. vs. Bradley, 164 U. S. 112;
Tarpey vs. McClure, 190 Cal. 593.

PAYMENT OF ASSESSMENTS.

Provision for payment in full.

SEC. 20. The assessment list of each county must remain open for payment in full in the office of the county treasurer of the respective counties within the district for a period of thirty days; and during the time they so remain any person may pay the amount of the charge assessed against any tract of land to the county treasurer in gold coin of the United States or in warrants of the district drawn by the state engineer or the board of directors, or the proper officers thereof.

Collection of unpaid assessments.

SEC. 21. At the end of thirty days the treasurer must make return to the board of directors of the district of all assessments paid. All

unpaid assessments shall bear interest at the rate of seven per cent per annum. Thereafter all unpaid assessments and accrued interest shall be collected when and as called, and paid to the treasurer of the county or counties, who shall collect and hold such moneys to the credit of the district. Unless bonds shall have been authorized as hereinafter provided, all such payments shall be made in such amounts or installments and at such times respectively as the said board, from time to time in its discretion, by order entered in its minutes, may direct. Upon making any order fixing and calling such installment or amount, the secretary shall also enter in the minutes of the board, and certify to each county treasurer for signature and mailing or publication in the counties in which any lands within the district are situated a notice in substantially the following form:

NAME: (Name) water storage district. (Location of the principal place of business.) Notice is hereby given that, at a meeting of the board of directors held on _____ an installment of _____ per cent of assessment number _____ was ordered paid within sixty days from the date thereof to the respective county treasurers of the counties wherein lands of such districts are situate. Any installment which shall remain unpaid on the (day fixed) will be delinquent, together with the accrued interest thereon, with ten per cent of such installment and interest added as penalty.

(Signed) _____

Treasurer of _____ County.

Such notice must be sent through the mail, addressed to each owner of land in the district at his place of residence if known or entered upon the assessment roll of the district, and if not known, at the place where the principal office of the district is situated, or in lieu thereof such notice shall be published once a week for two successive weeks in each such county.

If any such installment shall remain unpaid at the expiration of said sixty days from the date of the order, then the said installment of said assessment shall become delinquent, together with the accrued interest thereon and a penalty of ten per cent of the amount of said installment and interest shall be added thereto and collected for the use of the district.

Immediately after the said installment has become delinquent the said county treasurer or county treasurers must publish once a week for two successive weeks in each county wherein lands of the district are situate, in one notice a list of all delinquencies in such county, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed or a statement that it is assessed to unknown owners, if such is the fact, the amount then due on said property, and a notice that the property assessed will be sold on the date therein stated in front of the courthouse of said county to pay the amount then due on said property. The date of said sale shall not be less than ten days after the date of the last publication of said

notice. At the time stated in said notice, or such other time to which said sale may have been postponed, the county treasurer must sell said property to the highest bidder for gold coin of the United States. Out of the proceeds of said sale the county treasurer must deposit the amount due on said property as shown in said notice to the proper fund of the said district. The county treasurer must pay to the owner of said property any surplus remaining after said deposit to the credit of the district, after first deducting any expense of sale. Except where bonds have been issued upon an assessment the board of directors may direct the county treasurer to postpone said sale from time to time for not less than ten nor more than thirty days at one time, by a written notice posted at the place of sale.

If no bid is made for said property equal to the amount due thereon, it must be struck off to the district for the said amount so due. A certificate of such sale shall be executed by the county treasurer to the purchaser, or to the district if the property shall have been struck off to the district, and this certificate of sale shall be recorded in the office of the county recorder of said county. Any person interested in said property may redeem the same at any time within three years after the date of said sale, by paying to the county treasurer the amount for which the said property was sold, and interest on the said sum at the rate of two per cent per month from the date of said sale, which amount shall be credited to the proper fund of said district.

If no redemption shall be made within said three years, the purchaser or the district, if the property shall have been sold to the district, shall be entitled to a deed executed by the county treasurer or his successor in office, and the effect of such deed shall be to convey said property free and clear of all liens and incumbrances, except state, county and municipal taxes, assessments or taxes levied or assessed by or under statutory authority and any water storage district assessment or portion thereof remaining unpaid at the date of said sale, each installment whereof may be called and collected as herein provided. The board of directors may sell such property sold to the district at any time at public auction after notice given for the same period and in the same manner as is herein provided for sale of delinquent assessments, but not for a sum less than the amount for which said property was sold, with interest at seven per cent per annum, and the deed executed in pursuance of such sale shall convey said property free of all incumbrances except as herein above provided for said deed by the county treasurer. (Stats. 1923, p. 950.)

SUPPLEMENTAL ASSESSMENTS.

Manner of making levy.

SEC. 22. Thereafter, whenever in the opinion of the board of directors of the district, it shall be necessary to raise any sum for the maintenance, repair, or operation of works of the said district, or for the management and conduct thereof, the said board shall make an order, which order shall be entered in the minutes of the board and

shall recite the total amount necessary to be raised, and shall fix a rate designating the number of dollars or cents to be levied on each one hundred dollars of the original assessment theretofore made by the commissioners. Thereafter the board shall complete said assessment by inserting upon supplementary assessment rolls the total amount assessed against each respective tract or parcel of land to be assessed. The supplemental assessment roll herein provided for shall be filed with the county treasurer of each county of said district wherein lands of such district are situate, and thereafter collected in the same manner provided for the collection of the original assessment. The board of directors may call the whole or any part of such supplementary assessment in one installment, or may call the same in several installments.

The said report of the commissioners allocating the assessment levied for the purposes of the construction and maintenance of the original project, after having been approved and filed for record in each county as aforesaid, shall continue in force as the basis for apportioning and allocating subsequent assessments for construction, maintenance, repair, or operation of the works of the project, and for the incidental expenses of conducting the said district. All provisions of this act, with respect to the levy and collection of assessments, shall be applicable to such supplemental assessments.

Tarpey vs. McClure, 190 Cal. 593.

Special assessments, when and how made.

SEC. 23. In the event that the original assessment is insufficient to provide for the completion of the project or if the board of directors of the district should determine that it is for the best interests of the land owners in the district to acquire property or construct works in connection with said project which are not contemplated and covered by the original plans and estimates herein provided for, the board of directors is authorized to levy and collect a special and additional assessment in the manner and proportions herein provided for other assessments sufficient to complete the project or to acquire the property or construct the works desired unless the estimated cost of such completion of the project or acquisition of property or construction of works shall in the aggregate exceed ten per cent of the estimated cost of the original project and in that event a statement of the work necessary to be done to complete the project and the estimated cost thereof or descriptions of such property to be so acquired, or additional plans and specifications of such works, as the case may be, shall be prepared by the board of directors and filed with the state engineer and thereafter the board of directors shall call a special election, to be held within said district, at which shall be submitted to the owners of assessed lands in the district the question whether or not the said property shall be acquired or the additional works shall be constructed in accordance with the plans so prepared as the case may be. If a majority of the votes cast shall be in favor of acquiring the property or constructing the works the board of directors shall proceed to levy and

collect an assessment covering the cost thereof in the manner and proportions herein provided for other assessments. Such election shall be conducted, save and except as in this section otherwise specifically provided, in accordance with the provisions of this act relating to other elections in the district.

Tarpey vs. McClure, 190 Cal. 593.

BONDS.

Bonds, when and in what manner and form issued and how validated, certified, sold, paid, and proceeds accounted for.

SEC. 24. Whenever in any water storage district any assessment has been levied and assessed upon the lands of said district and remains unpaid in whole or in part, and, in the judgment and opinion of the board of directors of said district, it shall be for the best interest of the district or the landowners therein to issue bonds for the purpose of obtaining money to pay the costs of the proposed project, the indebtedness of the district, or any other lawful charge, or when a petition signed by the owners of more than one-fourth of the total acreage of the assessed land in the district requesting it is filed with the secretary of said board, the board of directors of such district shall by order entered upon the records of said board order a special election to be held in said district, at which special election shall be submitted to the owners of assessed land in said district the question whether or not bonds of said district shall be issued in an amount equal to the amount of such assessment, or the part of such assessment remaining unpaid, which said amount shall be entered by said board of directors in its records and stated by them in the order for such special election.

The notice of such special election must state in addition to other statements required to be made therein, the aggregate face value of bonds proposed to be issued. Only owners of lands which have been assessed as provided herein shall be qualified to vote at such election. Such election shall be conducted, save and except as in this section otherwise specifically provided, in accordance with the provisions of this act relating to other elections in the district.

The ballots cast at such election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and if the ballot be cast by proxy also the name of the person casting it, and the number of votes cast by each, and whether the same be cast for or against the issuing of the bonds. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall deliver a certificate showing such result and the number of votes cast for and against the issuing of such bonds to the county clerk of the county, and shall deliver a duplicate thereof to the board of directors of the district, and shall also deliver to the said county clerk all ballots cast at such election within said county and all documents and papers used at such election, and except as in this section specifically provided the provisions of this act with

reference to all matters pertaining to elections shall govern and control. The county clerks of the respective counties shall immediately upon receipt of the ballots, papers, and documents from the board of election certify to the board of directors at its office a statement of the result of said election held in each of said counties, with a statement of the number of votes for and in favor of the proposition of "Bonds—Yes" and opposed "Bonds—No." The board of directors shall thereupon in a certificate in writing recorded in their minutes declare that the proposal to issue bonds has carried or has been defeated, and stating therein the vote cast throughout the entire district, and a duplicate of such certificate shall be immediately transmitted to the state engineer.

If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of directors of the district shall cause bonds in the amount stated in the order for the election to be executed and delivered, together with the assessment list segregated as to counties within said district, to the treasurer of said district. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the board of directors of the district and attested by the treasurer of said district, and shall be numbered consecutively in order of their maturity, and shall bear interest at a rate not to exceed six and one-half per cent per annum payable semiannually on the first day of January and the first day of July in each year at the office of said treasurer, and at any other place within the United States which may be designated by said board, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the treasurer of said district. The principal of said bonds shall be made payable on the first day of July, or the first day of January, and in such years as the directors may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

(1) Not less than ten per centum of the aggregate face value of such bonds issued shall be payable within fifteen years from their date;

(2) Not less than two and one-half per centum of the aggregate face value of such bonds remaining unpaid at the end of fifteen years shall be payable each year beginning with the sixteenth year from their date, until the whole amount of said bonds has been paid.

Said bonds shall be substantially in the following form:

United States of America

State of California

(Name) water storage district.

No.----- \$-----

(Name) water storage district for value received hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the treasurer of said district, at (place) in the State of California, on the first day of -----, the sum of \$----- in

gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of ----- per cent per annum, payable at the office of said treasurer, or at (other designated places), semiannually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of ----- bonds of like tenor and effect (except as to denomination and maturity), numbered from ----- to ----- inclusive, amounting in the aggregate to ----- dollars, issued in accordance with the provisions of an act known as "California water storage district act," duly passed and adopted (stating when) and of the laws of the State of California, pursuant to an election held in said water storage district on the ----- day of -----, authorizing its issuance, and based upon and secured by an assessment levied on the lands in said district, and filed in the office of the county treasurers of the county (or counties) of ----- on the ----- day of -----, ----, and the said water storage district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the State of California applicable thereto, and that all the acts and conditions and things required by law to be done, precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of water storage district bonds.

In testimony whereof, the said district, by its board of directors, has caused this bond to be signed by the president of said board and attested by the treasurer of said district, with the official seal of said district affixed this ----- day of -----.

President of said board.

Attest:-----
Treasurer.

And the interest coupons may be substantially in the following form:

No.----- \$-----

The treasurer of (name) water storage district, California, will pay to the holder hereof on the ----- day of -----, ----, at his office at (place in the State of California, or at designated places), the sum of \$-----, in gold coin of the United States, out of the funds of (name) water storage district for interest on bond of said district numbered -----.

Treasurer.

The treasurer of said district shall place the bonds prepared pursuant to this act to the credit of the district. Therafter when directed by resolution of the board of directors of the district, the treasurer shall

sell the whole or any designated number of said bonds for the best price obtainable, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the said treasurer by publication at least once a week for two successive weeks in the county in which the office of said district is located, that he will sell a specified amount of said bonds, and stating the day, hour, and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed said treasurer shall open the bids and award the bonds to the highest responsible bidder. The treasurer upon written request of a majority of the directors must reject any or all bids. Any sale by the treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the treasuries of the respective counties in which land included in the district is situate to the amount of the unpaid assessment in each county and credited to the bond fund of the district, and a proper record of such transaction shall be made upon the books of said treasurer. At any time within thirty days after the issue of any bonds as the result of such election an action may be commenced in the superior court of any said counties by the board of directors of said water storage district in the name of the district as plaintiff, and the defendants shall be described as "all persons claiming any interest in any lands within the said (name) water storage district," to have it determined that said bonds are a legal obligation of such water storage district, and in the event no such action is brought then the same may be commenced by any land owner in the district within thirty days after the expiration of the period within which said action might have been brought by the board of directors. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for two successive weeks in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such district or any person interested may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court, and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days after the entry of judgment. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein, and all owners thereof and other interested persons.

All moneys collected by a county treasurer upon any assessment upon which bonds shall have been issued, including all moneys derived from sale of land for delinquent installments, or from redemption thereof, or from sale of lands bought by such treasurer at any such sale as trustee of the bond fund of the district, shall be by such treasurer forthwith paid into the county treasury of the county from which the same arose

to the credit of the bond fund of such water storage district, and shall be used exclusively for the payment of principal and interest of said bonds issued on such assessment.

Whenever the board of directors shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of a water storage district organized under this act, including any bonds of such district authorized but not sold, shall be made available for the purpose provided for in section seven of an act of the legislature of the State of California entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies, and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, as amended, the said board of directors shall thereupon file a certified copy of such resolution with the commission created by, and provided for in, said act of June 13, 1913, which commission, and the state controller in connection therewith, are hereby given the same power and authority in respect of the investigation and certification of bonds issued under this act as is given to them in respect of the investigation and certification of irrigation district bonds by said act, as amended, except as the same may be limited by, or inconsistent with, any provision of this act, and bonds of water storage districts provided for in this act which have been so investigated and certified and by authority of such investigation and certification are declared to be legal investments for the purposes stated in said act of June 13, 1913, as amended, may be lawfully purchased, or received in pledge for loans by savings banks, trust companies, insurance companies, guardians, executors, administrators, and special administrators, or by any public officer or officers of this state or of any county, city, or city and county, or other municipal or corporate body within this state having or holding funds which they are allowed by law to invest or loan; *provided, however,* that where said irrigation district bond commission has passed upon one issue of bonds of districts formed hereunder, that all subsequent issues of said districts shall be submitted to said commission as in said act provided.

The lien of any unpaid assessment upon which bonds shall have been issued shall continue until all said bonds shall have been paid in full, and if for any reason any part of the principal or interest of said bonds shall remain unpaid after enforcement of said assessment as in this act provided, the board of directors shall order an additional or supplemental assessment to be made as provided in this act sufficient to pay such unpaid principal and interest; which additional or supplemental assessment shall be enforced and collected in the same manner as the original assessment.

If any district having authorized the issuance of a series of bonds shall issue an additional series of bonds based on another assessment, the dates of maturity of such additional series of bonds shall be such

that the latest maturities thereof shall not exceed fifty years and the earliest maturity of bonds of such additional series shall be later than the latest maturity of bonds of any earlier series. All provisions of this section relative to the original issue of bonds shall apply to such additional series of bonds.

Upon a sale of any of the bonds provided herein the treasurer of the district is hereby authorized to accept in payment for said bonds, either in whole or in part, outstanding warrants of such district at their face value, together with the accrued interest thereon.

Where bonds of the district have been authorized to be issued on such assessments all unpaid assessments shall bear interest at the rate of seven per cent per annum from the date of the bonds issued thereon until such bonds shall have been fully paid and discharged, and the interest due at any time on said unpaid assessments may be called without calling any installment of the said assessment. The word installment as used in this section shall be construed as applying to interest as well as to principal as the case may be.

At least ninety days before any interest date of the bonds, the treasurer of the district shall certify to the county treasurer of each county in which lands of the district are situated an estimate of the amount of the amount of money and the percentage of the assessment together with the interest thereon, or only of the interest, necessary to pay interest and principal or the interest maturing on such interest date after crediting thereon the funds in the treasury applicable to the payment thereof to be collected by such county treasurer, and shall add thereto fifteen per cent of such aggregate sum to cover possible delinquencies, and each said county treasurer shall thereupon cause to be published, once a week for two successive weeks in the county of which he is county treasurer, a notice substantially in the following form:

(Name of water storage district). Notice is hereby given that an installment of assessment (describing it) or (amount or proportion thereof including interest thereon or only for interest) is payable within thirty days from date by all assessed landowners of said district in the county of (name of county) to the treasurer of said county. All or any part of said installment of interest which remains unpaid on the (day fixed) will be delinquent, together with accrued interest thereon, with ten per cent of such installment and interest added as penalty.

Dated: -----

(Signed) -----

Treasurer of ----- County.

If no newspaper is published in said county, such publication shall be made in a newspaper published in an adjoining county. If any part of such installment or any interest thereon shall remain unpaid at the expiration of thirty days from the date of said notice, it shall become delinquent and ten per cent of the unpaid amount of said installment and interest shall be added thereto and collected by said county treasurer. When any installment shall have become delinquent, said

treasurer shall, within ten days, publish in said county once a week for two successive weeks a notice containing a description of each parcel of land assessed in the district in said county wherein such installment is delinquent, as such description appears on the assessment list, the name of the person to whom it is assessed, to unknown owners, if such is the fact; the amount of the installment delinquent on such parcel, the amount of interest thereon reckoned to the day of sale, the amount of said ten per cent penalty thereon, and a notice that each of said parcels will be sold at public auction by said county treasurer in front of the courthouse of said county, at a specified day and hour, which shall not be less than thirty nor more than sixty days from the date of delinquency, to pay said delinquent installment, with said accrued interest and penalty. At the time stated in said notice, the county treasurer shall sell each parcel of land described in said notice to the highest bidder, unless prior thereto he shall have received payment in full of said delinquent installment, together with interest and penalty. No bid for any parcel shall be accepted less than the aggregate sum then due on said installment thereon with interest and penalty, and such sale shall be made for cash, except the treasurer may receive from any purchaser at their face value in lieu of cash bonds of said district or their interest coupons, issued on said assessment and then matured or to mature within sixty days after such sale. Any bond or coupon so received in payment shall be by the county treasurer forthwith canceled and filed in the office of the treasurer of the district. If the entire amount of such bond or coupon tendered in payment shall not be required to complete payment of the purchase money, the county treasurer shall endorse thereon as paid the amount of such purchase money credited thereon. If no bid is made for any parcel at such sale equal to the amount of the installment delinquent thereon, with interest and penalty, the county treasurer shall bid in and sell said parcel to himself and his successors in office, as trustee of the bond fund of said district, as purchaser, for the amount of said installment, interest, and penalty. The county treasurer shall execute to each purchaser, including himself as trustee a certificate of sale, and shall record a duplicate in the county recorder's office. Any person interested in the said property may redeem the same at any time within three years after the date of sale by paying to the county treasurer for such purpose a sum equal to the purchase price stated in the certificate, with interest thereon at the rate of twelve per cent per annum from the date of sale to such redemption. If no redemption shall be made within three years, the said county treasurer upon demand and surrender of such certificate of purchase, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in such certificate, which deed shall convey to the grantee therein named the said land free and clear of all encumbrances, except state, county and municipal taxes, assessments or taxes levied or assessed by or under statutory authority, and any water storage district assessment, or portion thereof, remaining unpaid at the date of said sale each installment whereof may be called and collected as herein provided, except that no parcel sold and conveyed to the district shall thereafter be subject to sale by the county treasurer for delinquent installments. Every deed by a county treasurer purporting to be executed under this section shall be *prima facie* evidence of the truth of the matters therein recited, and of ownership by the grantee of the lands

therein described. The county treasurer of each county shall credit to the bond fund of the district all moneys collected by him by sale or otherwise, upon assessments against which bonds shall have been issued, including interest and penalties, and he shall likewise credit to said fund the amounts of purchase money paid in bonds or coupons on sales made under said assessment. Each county treasurer shall charge to the general fund of the district, or to the bond fund if he has no money to the credit of the general fund, the expense of publication of notices and of recording certificates of sale, and shall notify the treasurer of the district thereof. The county treasurer shall transmit to the treasurer of the district all canceled bonds and coupons received in payment on any delinquent sale, and a memorandum of all sums endorsed as paid upon account of purchase money on any bonds or coupons, specifying the same. All moneys collected by any county treasurer upon account of an assessment on which bonds shall not have been issued shall be similarly accounted for to the treasurer of the district, and shall be credited to the general fund of the district. Any parcel of land bid in and purchased by any county treasurer as aforesaid, as trustee of the bond fund of the district, may be sold and conveyed by him or his successor in office at any time after the expiration of said redemption period of three years, at public or private sale and with or without notice, to any person paying him the amount for which said parcel was bid in by said treasurer at delinquent sale, with interest thereon at the rate of seven per cent per annum, compounded yearly, from the date of said delinquent sale, and also the amount of all subsequent installments then delinquent, with accrued interest and penalties thereon. Such payment may be made either in cash or in matured bonds and coupons issued on said assessment, taken at their face value, and such treasurer shall execute a deed to such purchaser upon such sale, conveying said property free of encumbrances, except as hereinbefore provided for deeds where no redemption is made. If any land so held by a county treasurer as trustee of the bond fund of a district shall remain unsold after the final installment of the assessment shall have been collected by payment or sale, then each such treasurer shall sell all said land so held by him at public auction to the highest bidder for cash, notice of which sale shall be given by publication once a week for two successive weeks in some newspaper published in the county in which said land is situated, and shall deposit the proceeds of such sale in the treasury of the county to the credit of the bond fund of the district. Any balance remaining in such bond fund, after payment in full of the principal and interest of all outstanding bonds of the district, shall be by the treasurer transferred to the general fund of the district. The county treasurer of each of the several counties shall report all transactions of delinquencies and sales to the treasurer of the district who shall keep a record thereof in the office of the district. (Stats. 1923, p. 952.)

POWERS AND DUTIES OF BOARD OF DIRECTORS.

General powers.

SEC. 25. The board of directors shall have the power and it shall be its duty to manage and conduct the business and affairs of the district; to adopt a seal; to make and execute all necessary contracts; to employ and appoint such agents, officers, and employees as may be required.

and prescribe their duties. The board and its agents shall have the right to enter upon any lands to make surveys, locate works, or for any other necessary and lawful purpose. The board shall have the power to construct, maintain, improve, and operate the necessary dams, reservoirs, canals, and works for the storage and distribution of water, and any drainage or reclamation works connected therewith, and to provide for the generation and distribution of hydro-electric energy incidental to such storage and distribution and shall have the power to sell, distribute, or otherwise dispose of, such water, water rights, and hydro-electric energy as may not be necessary for the uses and purposes of said district. The board shall also have the right to acquire by purchase, lease, contract, or other legal means, all lands, waters, water rights, or any use thereof or interest therein, and any other property or rights by it deemed necessary for the construction, maintenance, improvement, and operation of the works or the carrying out of the project of the district, whether the same be in this or another state or foreign nation, including the property and rights of private owners, and stocks of other corporations domestic or foreign, and may give in payment therefor bonds of such district upon such terms and conditions as the board of directors may deem best; *provided, however*, that no bonds shall be so used at a valuation less than ninety per cent of the face value of the same and the accrued interest thereon. Said board may also enter into, and do any acts necessary or proper for the performance of, any agreement with the United States or with any state, county, district, public corporation, or municipality of any kind, for a purpose appertaining to or beneficial to the project of the district, and may acquire the right to store water in any reservoir, or to carry water through any canal, ditch, or conduit within or without this state not owned or controlled by the district and may grant to the owner or lessee of a right to the use of any water permission to store such water in any reservoir of the district or to carry such water through any canal, ditch, or conduit of the district. The said board is hereby authorized and empowered to take conveyances, leases, contracts, or other assurances for all property acquired by it under the provisions of this act, in the name of such district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law, or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges, and immunities created by this act or acquired in pursuance thereof. All contracts and other documents executed by the board shall be signed by the president and by the secretary. And in all actions, suits or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such district. The board of directors shall have power whenever it deems it necessary for its own guidance or for the best interests of the district to submit any question or proposition relating to the construction, maintenance, improvement, or operation of the works or the carrying out of the project of the district, to the qualified voters of the district at any general election or at a special election called for the purpose, which election shall be in all respects conducted as is provided for other elections in the district. The said board shall have power

generally to perform all such acts as may be necessary to fully carry out the purposes of this act. (Stats. 1923, p. 960.)

Power of condemnation.

SEC. 26. The board of directors shall have the right and power to acquire by condemnation all lands, waters, water rights, or any use thereof or interest therein, and any other property or rights by it deemed necessary for the construction, maintenance, improvement, and operation of the works, or the carrying out of the project of the district. In case of condemnation proceedings the board shall proceed in the name of the district under the provisions of section fourteen of article one as amended of the constitution of the State of California, and title seven, part three of the Code of Civil Procedure of California and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceeding hereunder.

Construction and maintenance of works.

SEC. 27. The board of directors shall proceed to carry out the project of the district in accordance with the plans and specifications of the duly approved and adopted report of said board. Before making any contract for the construction of any works in carrying out said project, or for the subsequent maintenance, improvement, or operation thereof, said board shall advertise for bids. When such work is to be done said board shall give notice by publication thereof in the county in which the office of the board is located once a week for four successive weeks, calling for bids for the same. If less than the whole work provided for in said plans and specifications is to be done and advertised, the portion to be done must be particularly described in such notice. Said notice shall set forth that plans and specifications of the work to be done can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed shall be opened in public; and as convenient thereafter the board shall let said work either in portions or as a whole, to the lowest responsible bidder; or it may reject any or all bids and readvertise for proposals or may proceed to construct the work under its own superintendence; *provided*, that in case of emergency or urgent necessity the board of directors, by unanimous vote of those present at any regular or special meeting, may award contracts without advertising for bids, but the amount of any contract so awarded shall not exceed ten thousand dollars. Contracts for the purchase of materials only shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the full and faithful performance of said contract. The work shall be done under the direction and to the satisfaction of, and be approved by the board.

Payment of claims.

SEC. 28. All claims against the district shall be paid by warrants of said district. To provide a fund for that purpose the board of directors may from time to time draw from the general fund deposited and kept to the credit of the district in the office of the county treasurer of a county having funds belonging to the district in his possession such sums as may be necessary for said purpose, which said sums shall be deposited with the treasurer of the district and paid out by him upon warrants of the district, and he shall report to the board of directors in writing at its regular meeting in each month the amount of money in the district treasury and the amount of receipts and the amount and items of expenditures for the month preceding, which said report shall be verified and filed with the secretary of the board. (Stats. 1923, p. 961.)

Reports to state engineer of work done.

SEC. 29. During the construction of any works in carrying out the project of any water storage district the board of directors of such district shall, within one week after each regular meeting of said board, forward to the state engineer a report of the progress of such construction together with a statement of the amount, or amounts, paid for the doing of such work. The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published in the county where the office of said board is situated at least once a week for two successive weeks a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Immediately after the publication of said statement the board of directors shall cause a copy thereof accompanied by a report stating the progress of the work under construction and the general condition of the project and whether or not the same is being successfully and satisfactorily carried out, and any other matter which the board may deem proper, to be filed with the state engineer, who shall examine said statement and report and make to the board of directors such recommendations and comments as he may deem proper and may publish said recommendations and comments in such manner as may be deemed advisable. Said state engineer may at any time make or cause to be made an examination of the affairs of any water storage district within the state or call upon the board of directors of such district for such information as he may desire, and may make and publish such report thereon as he may deem advisable.

Right of way privileges.

SEC. 30. The board of directors shall have power to construct the said works across or intersecting any stream of water, water-course, street, avenue, highway, railway, canal, ditch, or flume, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said

intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of said property, thing, or franchise to be so crossed, can not agree upon the amount to be paid therefor, or the points or the matter of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart for the location, construction, and maintenance of said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

Compensation of officers.

SEC. 31. The members of the board of directors when sitting as a board or acting under the orders of the board, shall each receive not to exceed ten dollars per day and ten cents per mile for each mile actually traveled from his place of residence to the office of the board, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to all other officers and employees named in this act, to be paid out of the treasury of the district, except as herein otherwise provided.

Officers not to be interested in contracts.

SEC. 32. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Incurring indebtedness.

SEC. 33. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such provisions shall be and remain absolutely void; *provided*, that nothing contained in this section shall be construed as limiting the right of the board to enter into any contract for the use of or lease for any lands, water, water rights, or other property, as in this act provided, and by such lease or contract to bind the district for the payment of the rental or consideration specified in such lease or contract.

Distribution of water under certain conditions.

SEC. 34. In the event the volume of the water under the control of the district is so diminished that the distribution thereof in accordance with the apportionment of such water as finally made and approved by the adjustment board as prescribed in section nineteen of this act, will not, in the judgment of the board of directors, result in an

economical, efficient, and beneficial use of such water, said board shall have the power to distribute in a just and equitable manner the water available, in such manner, at and for such times, and in such quantities, as in the judgment of said board, will best promote the interests of said district, due regard being had to the rights of the respective parties thereto as determined by the assessment and apportionment of the commissioners provided for in section nineteen of this act as equalized by the adjustment board provided for in said section. (Stats. 1923, p. 962.)

GENERAL ELECTIONS.

Establishment of precincts.

SEC. 35. The board of directors of a water storage district shall establish a convenient number of election precincts in the district and define the boundaries thereof and at least one such precinct must be established for each division of the district, and said board whenever it is deemed advisable for the best interests of the district and the convenience of the voters may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of any such election precinct, which changes when made must be entered upon the minutes of the board.

Qualification of voters.

SEC. 36. Only the holders of title or evidence of title to lands situated within the district shall be entitled to vote at a general election, and every such holder of title or evidence of title shall be entitled to vote, in person or as hereinafter provided, in each precinct in which any of the lands so owned by him are situated and to cast one vote for each one hundred dollars', or fraction thereof, worth of land in said precinct so owned by him. Each male or female voter over the age of twenty-one years shall be entitled to vote in person or by proxy. Any guardian, administrator, or executor, of a person or estate owning land within the district shall be considered the holder of title or evidence of title to such lands for the purposes of this act, where the owner in fee is not entitled to vote. Any corporation holding title or evidence of title to lands within the district shall be entitled to vote as such land owner through any officer or agent thereunto duly authorized in writing under the seal of the corporation. Entrymen upon public lands situated within the district shall be considered as the holders of title or evidence of title to such lands for the purposes of this act. No person shall vote by proxy unless his authority to cast such vote shall be evidenced by an instrument in writing duly acknowledged and certified in the same manner as grants of real property and filed with the board of election. (Stats. 1923, p. 962.)

Elections, when held; officers to be elected.

SEC. 37. An election, which shall be known as the general water storage district election, shall be held in each water storage district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term shall expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto.

The term of office of each elective officer of the district elected after the election on organization provided for in section seven of this act shall be four years, or until his successor is elected and has qualified.

Notice of election; appointment of election officers.

SEC. 38. Twenty days before a general election held under this act, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board specifying the polling places of each precinct. Affidavits of the publication and posting of such notice must be filed with the county clerk of each county in the district, together with a copy of the order calling the election certified by the president of the board of directors, and duplicates filed with the board of directors. Prior to the time for posting the notices, the board must appoint for each precinct, from the voters thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the voters of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the place within the precinct where the election must be held.

Nominating petitions.

SEC. 39. Not less than ten days before the election, any ten or more qualified voters in any division of the district may file with the board of directors a petition, requesting that certain persons, specified in such petition, be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which voters may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district.

Election officers, powers and duties of.

SEC. 40. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges if, during the progress of the election, any judge ceases to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon him by law. Any voter of the precinct may administer and certify such oath. The polls must be opened at eight a.m. on the morning of the election, and be kept open until four p.m., when the same must be closed.

Ballots and manner of voting.

SEC. 41. The ballot used at the election shall be provided by the board of directors, and one of the judges of election shall deliver to each of the qualified voters one of the ballots so provided. The ballots

shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name; *provided*, that the ballots in each division of the district shall have on them names of persons to be voted for as director to represent that division only, and no director shall be elected by the district at large. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Each voter shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. Each ballot cast shall contain the name of the person casting the ballot with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the names of each voter, and if the ballot be cast by proxy the name of the person casting it, the number of votes cast by each, and whether the same be cast for or against the proposition submitted at the election.

Voting and counting of votes.

SEC. 42. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted as nearly as practicable in accordance with the provisions of the general election laws of this state. As soon as all votes are counted, a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by a judge and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the judges; and said ballots, together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any qualified voter of the district be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted. No list, tally paper, or certificate returned from any election shall be set aside or rejected for want of form, if it can be satisfactorily understood.

Canvass of votes.

SEC. 43. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of

directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and ascertaining the vote of the district for each person voted for, and declaring the result thereof.

Statement of results; vacancy in office, how filled.

SEC. 44. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) the whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the office of treasurer. The board of directors must declare elected as director the person having the highest number of votes for that office in each division, and as treasurer the person having the highest number of votes in the district. The secretary must immediately make out and deliver to such persons certificates of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of treasurer, the vacancy shall be filled by appointment of the board of directors; *provided*, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the state engineer shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the state engineer from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office for the remainder of the unexpired term to fill which he is appointed, and until his successor is elected and qualified.

Official bonds.

SEC. 45. Within ten days after receiving their certificates of election herein provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The treasurer of the district shall execute an official bond in the sum of fifty thousand dollars to be approved by the board of directors; *provided*, that the board may, if it shall be deemed advisable, fix the bond of the treasurer to suit the conditions of the district, the maximum amount thereof not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars. Each member of the board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by a judge of the superior court and shall be recorded in the office of the county recorder of the county in which the office of the board is situated, and filed with the secretary of said board. All official bonds herein provided for shall be made payable to the proper water storage district and shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; *provided*, that in case any district organized under this act is appointed fiscal agent of the United States or by the

United States in connection with any federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge of the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officers of the district to fully, promptly, and completely perform their respective duties. (Stats. 1923, p. 962.)

If election not held, provision for special election.

SEC. 46. If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by the owners of more than fifteen per cent of the total assessed valuation of the lands within the district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. (Stats. 1923, p. 963.)

Beginning of terms of officers; organization of board of directors.

SEC. 47. At noon of the first Tuesday in March next following their election, except as provided in section twelve of this act, the officers who shall have been elected at the preceding general district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board.

Recall of officers.

SEC. 48. The holder of any elective office of any district may be removed or recalled at any time by the voters; *provided*, he has held his office at least six months. The procedure to effect such removal or recall shall be as follows: A petition demanding the election of a successor to the person sought to be removed shall be filed with the secretary of the board of directors of such district, which petition shall be signed by qualified voters constituting at least twenty-five per cent of the highest vote cast within such district for candidates for the office, the incumbent of which is sought to be removed, at the last general election in such district at which an incumbent of such office was elected, or, in the case of the removal of the incumbent of an office elected by a subdivision of such district, such petition shall be signed by a like percentage of qualified voters of such subdivision computed upon the total number of votes cast in such subdivision for all candidates for the office, the incumbent of which is sought to be removed, at the last general election in such subdivision at which an incumbent of such office was elected; and said petition shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the voters. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. The signa-

tures to the petition need not all be appended to one paper. Each signer shall add to his signature his place of residence, giving the precinct, and if within a town having named streets and numbered houses, street and number. Each such separate paper shall have attached thereto an affidavit made by a qualified voter of the district and sworn to before an officer competent to administer oaths, stating that the affiant circulated that particular paper and saw written the signatures appended thereto; and that according to the best information and belief of the affiant, each is the genuine signature of the person whose name purports to be thereunto subscribed and of a qualified voter of the district. Within ten days from the date of filing such petition, the secretary of the board shall examine and from the records of qualified voters ascertain whether or not said petition is signed by the requisite number of such qualified voters, and he shall attach to said petition his certificate showing the result of said examination. If by the said certificate the petition is shown to be insufficient, it may be supplemented within ten days from the date of such certificate, by the filing of additional papers, duplicates of the original petition except as to the names signed. The secretary shall, within ten days after such supplementing papers are filed, make like examination of a supplementing petition, and if a certificate shall show that all the names to such petition, including the supplemental papers, are still insufficient, no action shall be taken thereon; but the petition shall remain on file as a public record; and the failure to secure sufficient names shall be without prejudice to the filing later of an entirely new petition to the same effect. If the petition shall be found to be sufficient, the secretary shall submit the same to the board of directors without delay, whereupon the board shall forthwith cause a special election to be held within not less than thirty-five nor more than forty days after the date of the order calling such election, to determine whether the voters will recall such officer; *provided*, that if a general water storage district election is to occur within sixty days from the date of the order calling for such election, the board may in its discretion postpone the holding of such election to such general election or submit such recall election at any such general election for officers of such district occurring not less than thirty-five days after such order. If a vacancy occur in said office after a recall petition is filed, the election shall nevertheless proceed as in this section provided. One petition is sufficient to propose a removal and election of one or more elective officials. One election is competent for the removal and election of one or more elective officials. Nominations for any office under such recall election shall be made in the manner prescribed by section thirty-nine of this act.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "yes" and "no" on separate lines, with a blank space at the right of each, in which the voter shall indicate by stamping a cross (X) his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in

case he shall be removed from office by said recall election; but no vote shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "no," said incumbent shall continue in said office. If a majority shall vote "yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The election shall be conducted, canvass of all votes for candidates for said office shall be made, and the result declared in like manner as in a regular election within such district. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law. If the vote at any such recall election shall not recall the officer, no further petition for the recall of such officer shall be filed before the expiration of six months from the date of such first recall election.

SPECIAL ELECTIONS.

Special elections, how held.

SEC. 49. Notice of any special election to be held pursuant to the provisions of this act must be given by posting notices in three public places in each election precinct in the water conservation district for at least twenty days, and also by publication of said notice once a week for three successive weeks in each county in which any land in said district is located. Such notice must specify the time and place of holding the election and the purpose thereof. Unless otherwise in this act expressly specified said election shall be held and the result thereof determined and declared as nearly as may be in accordance with the provisions of this act relating to general water conservation district elections; *provided*, that no informalities in conducting such election shall invalidate the same if the election shall have been otherwise fairly conducted.

GENERAL PROVISIONS.

Contest of elections.

SEC. 50. Any election held under the provisions of this act may be contested by any person owning property within the district, or proposed district, liable to assessment. Such contest shall be brought in the superior court of any county in which some portion of the land within the district or proposed district is situated and shall be conducted in the manner provided for contests of election by title two of part three of the Code of Civil Procedure of California, except that in the case of a contest not involving the right of a person declared elected to an office to hold such office the directors of the district shall be made parties to the contest. The court having jurisdiction shall speedily try such contest and determine upon the hearing whether the election was fairly conducted and in substantial compliance with the requirements of this act and enter its judgment accordingly. Such contest must be

brought within twenty days after the canvass of the vote and declaration of the result. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of the filing of the notice of appeal.

Determination of ownership and value of land.

SEC. 51. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes when the question of title to or value of land claimed to be owned by a petitioner or voter is involved, the county assessment roll last equalized at the time of the election or filing of the petition, in each county wherein any such land is situated shall be sufficient evidence of ownership and value. If any parcel of land is assessed on any such assessment roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, said parcel of land shall be deemed for any of the purposes of this act to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition or vote at any election provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest the holders of title or evidence of title whose undivided interests in any land are not specifically defined shall be deemed to have equal shares therein. Where property has been conveyed prior to the election and such change of interest does not appear by such assessment roll the original deed of conveyance, or a copy thereof duly certified by the county recorder of the county wherein the same has been recorded, or otherwise authenticated, shall be sufficient evidence to entitle the holder thereof to vote the acreage therein described. Any person not legally qualified to vote who shall make any false statement in respect to his right to vote shall incur all of the penalties provided in the Penal Code of the State of California for persons illegally voting at elections. The certificate of the register of the United States land office for the district in which the lands are situated, or of the surveyor general of the State of California, shall be sufficient evidence of possessory right in any lands entered under the laws of the United States or of the State of California. Guardians, personal representatives and other persons holding land in a trust capacity under appointment of court may sign any petition and may vote at any election in behalf of the estate represented by them without obtaining any special authority therefor. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom a petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioner under this act. The state engineer shall, prior to the election on organization, and at all subsequent elections the board of directors shall, cause to be prepared and certified and furnished to the election board at each voting place in the district a copy of each of said assessment rolls as far as the same pertains to any land in the respective precincts,

and shall likewise cause to be prepared and furnished to the election boards lists certified by the register of the United States land office or the surveyor general of the State of California, as the case may be, showing the lands entered under the laws of the United States or of the State of California, respectively, which said lists, so far as disclosed by the records of said offices, shall contain the names of the persons entitled to possessory rights therein and the quantity of land held by each of said persons by virtue of said rights. Said assessment rolls and said lists shall be used by the election boards in determining the qualifications of voters and the number of votes each voter is entitled to cast.

Where a tract of land is situated partly within and partly without the boundaries of an election precinct and the assessment roll contains a valuation of said tract as a whole the same must be apportioned according to the number of acres lying within and without the boundaries of said precinct. If there shall be included in any assessment roll or list as furnished to an election board any land which has no valuation assigned to it, then the state engineer or the board of directors, as the case may be, shall request the county assessor of the county in which such land is situated to value said land and it shall be the duty of such county assessor to prepare and furnish to the state engineer or board requesting it a statement of the value of such land as the same shall be appraised by him, which value shall be arrived at as nearly as may be done in the same manner and upon the same basis as was the valuation for purposes of taxation assessed upon other lands in the precinct similarly situated, and the valuation so made by the county assessor shall be furnished to the election board of the precinct in which the land so valued is situated and shall be used by the election board in determining the number of votes which the holder of title or evidence of title to such land is entitled to cast.

Publication, how and where made.

SEC. 52. Whenever any notice or publication, or notice of publication, or official advertising, or publication of process is required to be given or made by the provisions of this act the same, unless otherwise specifically provided in this act, shall be given or made in a newspaper of general circulation as defined by the laws of this state, printed and published in each county in which any of the lands in a water storage district, or a proposed water storage district, are situated, and if in any such county or counties there be no such newspaper then in a newspaper printed and published in an adjoining county, the time of the giving or making of said notices, publication, or advertising shall be, unless otherwise specifically provided in this act, once a week for two successive weeks. (Stats. 1923, p. 963.)

State engineer, additional duties of.

SEC. 53. The state engineer shall have authority and it shall be his duty to give information, so far as may be practicable, to persons contemplating the organization of a water storage district, and whenever the department of engineering of this state shall deem it in the public interest that preliminary surveys and field investigations of proposed water storage district projects shall be made at the expense of the state

the state engineer shall make such surveys and investigation and prepare a report thereof which shall be kept on file in his office.

Validity of section.

Tarpey vs. McClure, 190 Cal. 593.

Records of proceedings.

SEC. 54. The state engineer and the board of directors of every water storage district shall, respectively, cause to be entered in books to be kept for that purpose a complete and connected record of all their acts and transactions and shall execute all contracts and other written instruments in duplicate, one copy of each of which, together with any other documents, instruments, or other papers filed with them, shall be kept and preserved on file in their respective offices and open to inspection by the public during business hours. Said records and all documents, instruments, or other papers filed as above provided, or a copy or copies of any thereof certified by the state engineer or secretary of the board, shall be received in evidence without further proof in any court of this state, or before any board or tribunal authorized to hear or consider a matter wherein the same shall be properly admissible in evidence.

Title to, and disposition of property.

SEC. 55. The legal title to all property acquired under the provisions of this act shall by operation of law, immediately upon the acquisition thereof, vest in the water storage district by which it is acquired, and shall be held by such district in trust for the uses and purposes set forth in this act, and is hereby dedicated and set apart to said uses and purposes. The board of directors is hereby authorized and empowered to hold, use, manage, occupy, and possess said property and may determine by resolution duly entered upon its minutes, that any property, real or personal, held by the district is not necessary for the uses and purposes thereof and may sell the same for an adequate consideration; and a conveyance or transfer of any of the property of a district executed by the president and secretary of its board of directors in pursuance of a resolution of the board adopted as above provided, shall convey good title to the property.

Warrants, how drawn.

SEC. 56. Warrants drawn by the state engineer shall be signed by him and shall be drawn upon the treasurer of the water storage district. Warrants, drawn by the board of directors shall be signed by its president and secretary and countersigned by its treasurer, and shall be drawn upon the county treasurer of a county having funds belonging to the district in his possession for payment of the principal or interest of bonds, and upon the treasurer of the district or the county treasurer of such a county, as the case may be, for payment of all other claims and demands.

Warrants, payment of and interest on unpaid.

SEC. 57. Whenever any warrant of the district payable on demand is presented for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by

resolution of the board of directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment when funds of the district are not available to pay the same, the treasurer of the district or of the county, as the case may be, shall endorse thereon the words "funds not available for payment," with the date of presentation, and shall specify the interest that such warrants shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment, and such warrant is and shall be considered as a contract in writing for the payment of money and the period prescribed for the commencement of an action based upon such warrant is and shall be four years from the date of issuance. Whenever there is sufficient money in the treasury to pay all such outstanding warrants, or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date be paid and there is sufficient money available for such payment, the proper treasurer shall publish a notice once a week for two successive weeks in some newspaper published in the county in which the office of the board of directors is situated, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors as the case may be, and no further description of the warrants entitled to payment need be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication of said notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication of said notice. The treasurer shall enter in the record herein-before required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made, and the amount paid to each person.

Declaration of public use.

SEC. 58. It is hereby declared that the State of California has a paramount interest in the storage, conservation and diversion of water, the prevention of floods, the irrigation, drainage, and reclamation of land and the production of electric energy; and that such storage, conservation, diversion, irrigation, prevention of floods, reclamation, drainage, and production of electric energy will make productive vast quantities of land that are comparatively unproductive and will increase production, property valuations and population in the state, make profitable the cultivation of small tracts and promote subdivision of larger tracts, and will promote the welfare and prosperity of all the people. The powers herein conferred upon the state engineer and board of directors are hereby declared to be police and regulatory powers and are necessary to the accomplishment of a purpose that is indispensable to the public interests, and the water storage districts

hereunder provided to be formed are districts of the nature of irrigation, reclamation, or drainage districts in respect to all matters contemplated in the provisions of the constitution of the State of California relating to irrigation, reclamation, or drainage. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act and for domestic and other incidental and beneficial uses within such district, together with the rights of way for canals and ditches, sites for reservoirs and all other property required in fully carrying out the provisions of this act is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law.

Exemption of property from taxation.

SEC. 59. The rights of way, ditches, canals, flumes, pipe lines, dams, water rights, reservoirs, power plants, and transmission lines, and all other property of like character belonging to a water storage district shall not be taxed for state and county or municipal purposes.

Conduct of actions.

SEC. 60. The court or other board or tribunal having jurisdiction before whom any action, proceeding, or contest in this act provided for is heard shall, when considering the regularity, legality, or correctness thereof, disregard any error, irregularity, or omission which does not affect the substantial rights of the parties concerned. In all such actions, proceedings, or contests the rules of pleading and practice provided by the Code of Civil Procedure of California, in so far as they are not inconsistent with the provisions of this act, shall apply. A motion for a new trial or hearing in such action, proceeding, or contest must be heard and determined within ten days from the filing of the notice of intention. The costs on any such action, proceeding, or contest may be allowed and apportioned between the parties or taxed to the defeated party in the discretion of the court, board, or tribunal before whom the same is heard. No such action, proceeding, or contest shall be commenced other than within the time and manner herein specified, and in the determination thereof all findings of fact or conclusions of the state engineer or the board of directors upon all matters shall be held to be conclusive unless the action, proceeding, or contest was instituted within six months after such findings or conclusions were made.

Consolidation of actions.

SEC. 61. If two or more actions or contests shall be pending at the same time in the same court or before the same board or tribunal for the purpose of contesting or determining the validity of identical or similar acts or matters under the provisions of this act, said actions or contests shall be consolidated and tried together.

Neglect of official to perform duty.

SEC. 62. It shall be the duty of the state engineer to ascertain whether the duties relating to the levying and collection of any assessment or assessments provided for in this act have been performed by the proper officer, and if the engineer shall learn that any officer of the

district or of any county therein has neglected or refused to perform such duty he shall forthwith notify the district attorney of the county in which the office of the district is located of such failure or neglect, and said district attorney shall, thereupon, after due notice to the official or officials involved, take such proceedings in court as may be necessary to compel the performance of such duty.

Penalty for violation of duty by officer.

SEC. 63. For any wilful violation of any express duty in this act provided for on the part of any officer herein named, such officer shall be liable upon his official bond and shall be subject to removal from office by proceeding brought in the superior court of the county in which the office of the board of directors of the district is located, by any assessment payer of the district.

Omission of land from assessment.

SEC. 64. In the event any land subject to assessment is not assessed or does not appear upon the assessment book of the district for any year, the land so omitted may be assessed in the next or any year following, and the amount of such assessment shall be added to and become a part of the assessment levied upon the land for such subsequent year.

Dissolution of district.

SEC. 65. Any water storage district organized pursuant to the provisions of this act may be dissolved for the same reasons, under the same circumstances, in the same manner, upon the same conditions, and with the same results as is or may be provided by the laws of this state for the dissolution of irrigation districts organized under the laws of California; *provided*, that in case a contract authorized by law has been made between a water storage district and the United States pertaining to the construction, maintenance, or operation of the works of the district, or the delivery or supply of water therefor, no such district shall be dissolved nor shall any proceedings be initiated by a court or otherwise for the purpose of dissolving such district, unless and until the consent in writing of the secretary of the interior to such dissolution or proceedings has first been obtained.

Constitutionality.

Tarpey vs. McClure, 190 Cal. 593.

Title of act.

SEC. 66. This act shall be known and may be referred to in any action, proceeding, or legislative enactment, as the "California water storage district act."

Unconstitutionality of part of act, effect of.

SEC. 67. If any section, subdivision, sentence, clause, or phrase of this act be for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act; and the legislature hereby declares that it would have passed this act and

each and every other section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases of this act be declared unconstitutional.

Noninterference with vested rights.

SEC. 68. Nothing in this act contained shall be so construed as to affect or impair the vested right of any person, association, or corporation to the use of water. (Stats. 1923, p. 963.)

Tarpey vs. McClure, 190 Cal. 593.

Repeal of other acts.

SEC. 69. The California irrigation act, approved June 4, 1915, and all acts amendatory thereof, and all acts and parts of acts inconsistent with any of the provisions of this act, are hereby repealed, but nothing in this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of irrigation.

Repeal constitutional.

Tarpey vs. McClure, 190 Cal. 593.

3. CALIFORNIA WATER CONSERVATION DISTRICT ACT.

An act providing for the organization, operation, maintenance, and government of water conservation districts, and for the acquisition, appropriation, diversion, storage, conservation, and distribution of water for the irrigating of lands in such districts, for drainage and reclamation connected therewith; and for the generation, disposition, and sale of hydro-electric energy developed incidental to such storage and distribution; and for the acquisition of lands or rights therein and the acquisition, construction, operation, and maintenance of works to carry into effect the provisions of this act; for the inclusion therein of irrigation districts, water storage districts, reclamation districts, drainage districts, and other political subdivisions of the state, as constituent districts or units of said water conservation districts, and the manner of providing funds and the voting and issuance of bonds by such political subdivisions, to carry out the purposes of this act; and creating a state board to be known as the "state irrigation board," and defining its powers and duties, and the methods and procedure of exercising such powers and duties. (Title amended, Stats. 1925, p. 555.)

(Approved June 18, 1923; Stats. 1923, p. 978; Amended, Stats. 1925, p. 555.)

STATE IRRIGATION BOARD.

State irrigation board created.

SECTION 1. There is created a board to be known as the "state irrigation board," which board shall consist of the state engineer and two executive directors.

That said board shall constitute a body corporate and body politic for the purpose of exercising the powers and performing the acts herein mentioned, and said board shall have the power to sue and be sued.

The executive directors provided for by the California water storage district act, Statutes of 1921, page 1727, and approved June 3, 1921, are hereby declared to be and are hereby constituted the two executive directors of the "state irrigation board" herein created; *provided, however,* that if any of the offices provided for in the said California water storage district act are vacated or declared vacant or abolished, the governor shall without delay appoint the executive members of said board herein created and said executive directors so appointed by the governor shall serve for four years and until their successors have been appointed. Their successors shall be appointed and all vacancies shall be filled by appointment in like manner.

One of said executive directors shall have at least five years practical experience in irrigation, and the other of whom shall have at least five years experience in administration and both of whom shall be residents of this state and continue to be such residents during the term of their office.

The office of the state irrigation board herein created shall be at the city of Sacramento, in the State of California.

Each executive director shall receive as compensation the sum of twenty (20) dollars per day for each day actually employed in the performance of duties under this act and shall receive actual traveling expenses when engaged in the performance of such duties, which shall be charged as a part of the cost of the project of the proposed water conservation district for which such duties are performed.

Officers and employees of board.

SEC. 2. The state engineer shall be the chairman of the state irrigation board herein created and said board shall employ a secretary and such attorneys, engineers and other employees and assistants as it may require and shall fix the term of their employment and compensation.

Power to organize water conservation districts.

SEC. 3. The state irrigation board shall have the power to unite into single districts in the manner and for the purposes provided in this act, irrigation districts, water storage districts, reclamation districts, drainage districts and other political subdivisions of the state, organized to promote irrigation, reclamation or drainage, which united districts shall be known and are herein referred to as water conservation districts; and the purposes of the formation of such districts being primarily to provide for the storage of waters and the development of hydro-electric energy in conjunction therewith and incidental thereto, to promote the irrigation of the lands therein, and in connection therewith and incidental thereto the reclamation and drainage and flood control of such lands. The legislature hereby declares that every such water conservation district, formed as herein provided, is and shall be an irrigation district within the meaning of section thirteen of article eleven of the constitution of the State of California, and within the meaning of every other provision of said constitution relating to irrigation districts. Such water conservation districts shall be composed of three or more units, all or any of which units shall be irrigation districts, water storage districts, reclamation districts, drainage districts, or other political subdivisions of the state organized to promote irrigation, reclamation or drainage or flood control.

ORGANIZATION OF DISTRICTS.

Petition for organization.

SEC. 4. Whenever three or more of such units, all or any of which units shall be irrigation districts, reclamation districts, drainage districts, water storage districts or other political subdivisions of the state organized to promote irrigation, reclamation or drainage or flood control now or hereafter to be formed, can use a common system of works and all the land situated therein be benefited by such works, the governing boards of any three or more of said units may present a petition to the state irrigation board herein created for the purpose and object of creating a water conservation district. Said petition shall designate by name or otherwise the units joined in such petition and the water to be stored, used or acquired and shall outline generally the character and location of the proposed works and pray that said units be united in

pursuance of the provisions of this act so as to create a water conservation district.

Said petition shall be signed by the presiding officers and the secretary or clerk of the governing board of each of said units under seal of said units so petitioning said state irrigation board to form a water conservation district as herein provided.

Said petition may be contained in separate instruments presented by each unit or may be contained in one or more instruments presented by any or all of said units. Such petition must be accompanied by a certified copy of a resolution of the governing boards of each petitioning unit, authorizing the presiding officer and the secretary or clerk to execute the same.

Said petition must be accompanied with a good and sufficient undertaking or agreement to be approved by the state irrigation board herein created, conditioned that the sureties or signers shall pay all of the costs and expenses in connection with the investigation herein provided for in case said organization shall not be finally effected, and said state irrigation board herein created shall have power to require the furnishing of any additional undertaking, or undertakings, or payments of money in case they should deem the same necessary; *provided, however,* that the cost thereof shall not in the aggregate exceed in amount in dollars one-fourth the number of acres in such proposed water conservation district and shall be deemed a part of the expense of said project, and said state irrigation board herein created may require the same to be paid by the proponents of said district, and the sum so collected and expended by said state irrigation board shall be considered and treated as a proper and legal charge against the water conservation district and which shall be payable out of the funds of said water conservation district when the organization thereof has been completed.

If said district for any reason be not organized as hereinafter provided for, any money remaining in the hands of said state irrigation board shall be returned to petitioners.

Upon presentation to it of a petition or petitions, as aforesaid praying for the formation of a conservation district, the state irrigation board herein created shall fix a time and place, which place shall be within the county in which the lands of said proposed water conservation district are situated and if the lands of such water conservation district are situated in more than one county, then in any one of such counties, at which it shall hear said petition, which time shall be not less than twenty-five (25) days, nor more than thirty (30) days, after the first publication of the notice hereinafter provided for in section five (5) of this act.

Notice of hearing.

SEC. 5. Said petition together with a notice stating the time and place of the hearing so fixed by said state irrigation board shall be published in each county in which any of the lands of said proposed district are situated in a newspaper of general circulation, published in such county at least once a week for three successive weeks before the date of said hearing; said notice shall be issued by the said state irriga-

tion board herein created, shall refer to said petition and shall be directed to the petitioners therein, and to each of the units petitioning to form said water conservation district, and to all persons holding title or evidences of title to any lands included within the water conservation district proposed in said petition, and to all persons having or claiming any right, title or interest in and to the waters proposed to be stored, acquired or used, as set out in said petition, and to all other persons who may be interested in or affected by the project contemplated in said petition, and to all or any persons in any way interested in or affected by said petition or the formation of said water conservation district, and shall be substantially in the following form:

Before the State Irrigation Board of the State of California:

To the petitioners in the foregoing petition and to each of the units petitioning to form said water conservation district, and to all persons holding title or evidence of title to any lands included within the water conservation district proposed in said petition, and to all persons having or claiming any rights, title or interest in and to the waters proposed to be stored, acquired or used as set out in said petition, and to all other persons who may be interested in or affected by the project contemplated in said petition, and to all or any persons in any way interested in or affected by said petition or the formation of said water conservation district:

You and each of you are hereby notified that the foregoing petition was filed with the state irrigation board on the _____ day of _____, 19____, and will be heard by said state irrigation board at _____ on the _____ day of _____, 19____, at the hour of _____ o'clock _____m. of said day, at which time and place said state irrigation board will hear and receive evidence in support of said petition and any objections which may be presented thereto.

This notice is given pursuant to the provisions of an act approved _____ and known as California water conservation district act, to which said act particular reference is hereby made.

State Irrigation Board,

By _____ Chairman

By _____ Secretary

Dated _____

When contained in more than one instrument only one copy of said petition need be published but the name attached to all of said instruments must appear in such publication.

Hearing.

SEC. 6. At the time and place fixed in said notice the state irrigation board shall proceed to hear said petition and to determine whether or not the same complies with the requirements hereinbefore set forth and whether or not the notice filed herein has been published as required and

must hear all competent and relevant testimony offered in support of or in opposition thereto.

Said hearing or any adjournment thereof may be conducted and heard by any one or more of the members of said state irrigation board. Said hearing may be adjourned from time to time as the state irrigation board or any member or members thereof conducting the same may determine.

For the purpose of performing any duty under this act the chairman of the state irrigation board may appoint one or more of its members to conduct any hearing or investigation. Such member or members shall make a written report to the state irrigation board of the proceedings taken at such hearing and shall state the evidence introduced at such hearing and his or their conclusions thereon.

Upon such report or upon such further hearing as the state irrigation board shall deem proper, the state irrigation board may pass upon and decide any question under consideration at said hearing. The decision of the state irrigation board shall be final except as to questions, the determination of which are vested in the courts by this act or by the constitution of this state or by the constitution of the United States.

No defect in the contents of the petition or in the title to or form of the notice or signatures to said notice or petition shall vitiate any proceedings thereon.

If there shall be presented at such hearing or at any time before the final order herein provided for of the state irrigation board, a written objection or objections signed by the owners of more than one-half of the lands in any such units or constituent districts, or a majority in numbers of the holders of title or evidence of title, according to the equalized county assessment roll or rolls for the year last preceding, the signing of such petition by the officers of such constituent district or unit shall be deemed to be nullified, and the state irrigation board shall have no power to include such unit or district within the proposed water conservation district.

WATER AND POWER SURVEY.

Water and power survey.

SEC. 7. The state irrigation board shall before making a final order creating a water conservation district as in this act provided, proceed to make or cause to be made all such examinations, surveys, estimates of costs for the acquisition, appropriation, diversion, storage, conservation and distribution of water, any drainage or reclamation or flood control works in connection therewith and works for the generation of hydroelectric power incident thereto and the sale and distribution thereof, as may be necessary or requisite to enable said state irrigation board to ascertain and estimate the requirements and works necessary for the purpose of said water conservation district as prayed for in said petition and the cost and expense thereof, and to make a report thereon as herein provided.

In such connection said state irrigation board may use and adopt all previous estimates, surveys, reports and other data it may have acquired or which are available to it, adapted to that purpose and may employ all necessary engineers, attorneys and other assistants for the accomplish-

ment of said purposes, and the cost thereof shall be deemed a part of the expense of the investigation and organization of such water conservation district as provided in section four hereof, and shall be a charge against said water conservation district if created.

Upon the completion of said examination and study of the proposed project by said state irrigation board, said board shall prepare a report thereof, in which report shall be set forth the character and nature of the proposed works, a description of the rights to water, to lands, and other property necessary to be acquired to carry said project to completion, accompanied by an estimate of the cost of said project. A copy of such report and estimate shall be kept on file in the office of the state irrigation board and be open to inspection during business hours by all interested persons or parties.

Apportionment of water power, etc.

SEC. 8. The state irrigation board shall, before making the final order creating a water conservation district, by order duly entered in its minutes, apportion to each constituent district or unit of said water conservation district, the portion to which it is entitled of all the water storage capacity in the proposed reservoir, the waters stored or to be stored or diverted or to be diverted by such project for the irrigation of the lands of the water conservation district, and all power developed or to be developed incidental thereto or in connection therewith, and in making such apportionment it must take into consideration the present water rights and the additional water necessary to perfect the irrigation of the lands of each unit, and the apportionment of power to each unit shall be in the same proportion to the whole as its apportionment of capacity in the reservoir, which proportion of such water and power shall be forever applied to the purpose and for the benefit of such constituent district or unit.

Said board shall likewise in such order determine, define, and apportion to each of such constituent districts or units the proportion of all costs and expenses of the project to be paid by it, including the costs and expenses of said irrigation board in connection therewith, same to be based upon and in proportion to the allotment of water storage capacity, water and power apportioned to each unit plus the benefit of reclamation or drainage or flood control to such unit, and to each of such allotments fifteen (15) per cent above the actual estimate shall be added for contingencies. A copy of such order duly certified, shall be served on each of the constituent districts or units by delivering the same to some officer thereof, and provided, that nothing herein contained shall be deemed to confer on said state irrigation board or upon any water conservation district formed under the provisions of this act the right to impair or deprive any person, corporation or district of any vested right in or to any water without due process of law. (Stats. 1925, p. 555.)

APPORTIONMENT OF COST.

Cost of work beneficial to particular district.

SEC. 9. When any of the proposed works of a water conservation district will serve the purpose of drainage, flood control or reclamation

within a constituent district or unit of a water conservation district, the state irrigation board may estimate the proportion of the cost of said construction which may be properly charged to the constituent district or unit benefited by such drainage, flood control or reclamation and carry such amount into the total sum to be paid by such constituent district or unit.

Election.

SEC. 10. After making the order of apportionment provided for in section eight hereof the state irrigation board shall make an order directing the governing board of each unit or constituent district to call an election to be held on the one hundred and twentieth day after the making of said order by said irrigation board apportioning the benefits and costs and expenses as herein provided.

Said order of the state irrigation board last above provided for shall contain the name of the proposed water conservation district and shall describe the territory embraced within such proposed water conservation district by naming the constituent units or districts proposed to be joined therein as set forth in the petition to the state irrigation board.

Upon receiving and filing a copy of said order of said state irrigation board duly certified by the secretary of said board, it shall be the duty of the governing board of each of said constituent districts or units by resolution to call said election to be held, as herein provided.

The secretary of the governing board of each of said constituent districts or units shall give notice of said election, which said notice of such election shall contain the name of the proposed water conservation district and the description of the territory embraced within such proposed water conservation district by naming the constituent districts or units proposed to be joined therein as set forth in the petition to said state irrigation board. Said notice shall also state that there shall be submitted to the electors or voters of each of such units or districts in which such election is held the question as to whether or not a water conservation district shall be organized under the provisions of this act, and shall require ballots to be cast which shall contain the words "Water Conservation District—Yes" and "Water Conservation District—No" or words equivalent thereto, and shall require that said ballots shall also contain the words "Bonds—Yes" and "Bonds—No" or words equivalent thereto, and said notice shall also state the amount of bonds proposed to be issued to pay the proportion of the costs and expenses allotted and apportioned to such constituent district or unit by the state irrigation board in said order. Said notice shall also set forth the date upon which said election is to be held and the time of the opening and closing of the polls and shall specify the precincts in the constituent district or unit holding such election, which precincts shall be the same as those established and existing in such constituent district or unit where such election is held; and in the event none are already established and existing, then, prior to the giving of said notice of said election, the same are to be fixed and established for said election by the governing board of the particular district or unit in which the same are not already established and existing.

The governing board of the constituent district or unit holding said election shall in its resolution calling said election, fix and specify the polling places of each precinct and shall appoint one clerk, one inspector and two judges from the electors thereof for each polling place, who shall constitute a board of election for said precinct. Said polling places and the names of said officers of said election shall be specified in said notice of election. If a governing board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of the election, the electors of the precinct present at that hour may appoint the board or supply the place of an absent member thereof.

Said notice shall be posted for at least two weeks prior to the date of election in three public places in each election precinct in each constituent district or unit holding such election, and published for at least once a week for two successive weeks prior to the date of said election in a newspaper of general circulation in each county in which any of the lands of such constituent districts or units are located. At such election there shall be submitted to the electors or voters in each of such units or districts the question whether or not a water conservation district shall be organized under the provision of this act.

At such election there shall also be submitted to the electors or voters in each of such units or districts the question whether or not bonds shall be issued and sold in an amount sufficient to pay its proportion of the costs and expenses allotted and apportioned to such unit by the state irrigation board in said order. The ballots to be cast at said election shall contain the words, "Water Conservation District—Yes" and "Water Conservation District—No" or words equivalent thereto, and said ballot shall also contain the words "Bonds—Yes" and the words "Bonds—No" or words equivalent thereto.

No particular form of ballot shall be required other than as herein specified and any defect or informality in any statement on said ballot shall not invalidate said election.

As soon as all the votes are counted a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each proposition voted on has received, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, inspector and one judge. One of said certificates with the poll list and tally paper to which it is attached, shall be retained by the inspector and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector during the counting thereof, in the order in which they are entered upon the tally lists by the clerks; and said ballots, together with the other of said certificates with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks and endorsed "Election returns of (name of precinct) precinct," and be directed to the secretary of the governing board of the constituent unit or district in which said vote is cast, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary and the ballots shall be kept unopened for at least six

months; but if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the date appointed for the governing board to open and canvass the returns and demand a re-count of the vote of the precinct that is so claimed to have been incorrectly counted, and no list, tally paper or certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood.

The governing board of each constituent unit or district must meet at its usual place of meeting on the second Monday after said election to canvass the returns. If, at the time of meeting, the returns from each precinct in a constituent district or unit in which the polls were opened, have been received, the governing board must then and there proceed to canvass the returns; but if all the returns have not been received the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district or unit on each proposition submitted and declaring the result thereof.

Except as herein otherwise specified, and as nearly as practicable, all the laws, rules and regulations, and amendments and modifications thereto, governing the manner of conducting and holding elections of the particular constituent district or unit in which the election provided for in this section is held, shall apply to and govern this election.

A majority vote in each constituent district or unit shall be required to carry the election in said district or unit in favor of the propositions submitted at said election as to voting of bonds. (Stats. 1925, p. 555.)

Order establishing district.

SEC. 11. Within ten (10) days after such election has been held and the result thereof determined, and declared, it shall be the duty of the governing board of each petitioning constituent district or unit, to have the secretary of said governing board certify to the said state irrigation board, the result of such election, and whether or not said bonds have been voted, and whether or not the constituent district or unit represented by said governing board, has voted in favor of, or against the organization of said conservation district. Within ten (10) days after the state irrigation board receives the said certificates from all of the petitioning units or districts, said board shall enter an order that a conservation district is established comprising only those districts which have voted both in favor of the organization of said conservation district and in favor of the bonds at the election held for that purpose; *provided*, that such districts represent eighty-five per cent or more of the apportionment of the project as made in accordance with the provisions of section eight of this act.

Said irrigation board shall also in said order apportion to the districts or units voting in favor of organization and for bonds that portion of the water storage capacity and of the waters stored or to be stored or developed, and all power developed or to be developed which it had theretofore apportioned to the districts or units voting against organization or bonds, such apportionment to be made to the districts or

units entitled thereto in proportion to the apportionment theretofore made to them.

A certified copy of said order shall be served upon the secretary or other officer of the governing board of each of said constituent districts or units, and a copy thereof, duly certified, shall be recorded by said state irrigation board, in the office of the county recorder of each of the counties in which any of the lands, included in said water conservation district, are situated.

The board of directors of each constituent district or unit shall enter upon its minutes the certified copy of said order so received by it.

The state irrigation board shall also, in said order establishing said water conservation district, divide said water conservation district into three, five, seven, nine or eleven subdivisions, as is most practicable, which said subdivisions shall be designated by number, and in making such subdivisions, the said board shall make the same as nearly equal in acreage as is practicable; *provided, however*, that districts or units or parts thereof, created or formed under different laws or acts of the legislature, shall not be joined or united into one subdivision.

A majority of the votes cast at such election in each particular constituent district or unit shall be required to carry the election in said district or unit in favor of the organization of a water conservation district. (Stats. 1925, p. 555.)

BOARD OF DIRECTORS.

Government of district; election of directors.

SEC. 12. Such water conservation district shall be governed by a board of directors consisting of one director elected from each of said subdivisions in the manner herein provided. The state irrigation board shall give notice of an election to be held in each subdivision of such water conservation district within sixty days after the making of said final order establishing said district, for the purpose of electing a director from each subdivision, and shall fix and establish in said notice a convenient number of election precincts in each subdivision of said water conservation district, and define the boundaries thereof, and at least one precinct must be established for each subdivision of said water conservation district. There shall also be designated in said notice, a voting place or places in each subdivision and a board of election consisting of one clerk, one inspector and two judges for each voting place, the names of which said officers of election shall be specified in said notice. Said notice, as to the election in each subdivision, shall be posted in three public places in each election precinct, and published in a newspaper of general circulation published in each county in which any of the lands included within the boundaries of said water conservation district are situated, for at least two weeks prior to the date of said election.

Nominating petitions for directors to be elected at such election shall be filed with the state irrigation board in the manner hereinafter provided for filing of nomination petitions with the board of directors of a water conservation district.

As soon as the polls are closed, the election officers shall count votes cast at such election, and a certificate shall be drawn by said election

officers stating the number of votes each candidate received, and the result of said election. The certificate as aforesaid shall be signed by an inspector and judge of such election board. The election returns shall be immediately delivered by the inspector or by some other safe and responsible carrier designated by said inspector to the secretary or other officer of the state irrigation board. No returns from election shall be set aside or rejected for want of form if they can be satisfactorily understood.

On the second Monday after such election the state irrigation board shall meet at its usual place of meeting to canvass the returns. If at the time of the meeting the returns from each precinct in the water conservation district in which polls were opened, have been received, the state irrigation board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and ascertaining the vote of each subdivision of the water conservation district for each director thereof voted for, and declaring the result thereof. The secretary of the state irrigation board must immediately make out and deliver to each person elected a director of a subdivision of the water conservation district a certificate of election signed by him and authenticated with the seal of said board and shall designate a place within the boundary of the conservation district where the first meeting of said directors shall be held. (Stats. 1925, p. 555.)

Organization of board of directors.

SEC. 13. The directors of a water conservation district shall at noon on the second Tuesday of the first month after their election and qualification meet and organize as a board, enter upon their official duties, elect one of their members as president and appoint a secretary and a treasurer, neither of whom shall be a member of said board, and all of whom shall hold office at the pleasure of the board. The board shall select and designate an office of the board, which shall be in one of the counties in which any of the lands of the water conservation district is situated, which shall also be the office of the district, at which the board shall thereafter hold its meetings.

The salary of the secretary and the treasurer and the amount of the bond to be given by each for the faithful performance of their duties shall be fixed by the board of directors. The board shall then proceed to classify themselves by lot into two classes as nearly equal in number as possible, and the term of office of the class having the lesser number shall expire at noon on the second Tuesday in March following the next general February election provided for in this section of this act and the term of office of the class having the greater number shall terminate at noon on the second Tuesday in March following the next general election thereafter.

An election which shall be known as the general water conservation district election, shall be held in each water conservation district on the first Wednesday in February of each odd-numbered year at which a

successor shall be chosen to each director whose term of office shall expire at noon on the second Tuesday in March next thereafter. The term of office of each director of the district elected after the election on organization provided for in section twelve of this act shall be four (4) years or until his successor is elected and has qualified.

In case of vacancy in the office of director, the state engineer shall appoint some person qualified by law to fill such vacancy for the unexpired term. No director shall be elected by the water conservation district at large, but one director shall be elected from each subdivision to represent such subdivision.

Each director from each subdivision shall be a freeholder in the subdivision he represents.

A director or any other official of any constituent district or unit shall be eligible to hold the office of director of a water conservation district.

Within ten days after receiving their certificates of election or appointments herein provided for, each member of the board of directors shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond herein provided for. Each member of said board of directors shall execute an official bond in the sum of \$5,000 which said bond shall be approved by a judge of the superior court of the county in which the office of the board is located, and shall be recorded in the office of the county recorder of such county, and filed with the secretary of said board, except that the official oath and bond of each director elected at the first election of directors shall be filed with the state irrigation board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the water conservation district. (Stats. 1925, p. 555.)

Nomination and election of directors.

SEC. 14. Not less than ten (10) days before the election of directors any ten (10) or more qualified voters in any subdivision of the water conservation district may file with the board of directors of the water conservation district a petition requesting that a certain person or persons specified in such petition be placed on the ballot as a candidate or candidates for the office named in the petition. The name or names proposed by the various petitions so filed, and no others, shall be printed on the ballot; but there shall be sufficient blank spaces left in which voters may write other names, if they so desire. The petitions shall be preserved in the office of the board of directors of the water conservation district.

Thirty days before an election to be held under section thirteen of this act the secretary of the board of directors of a water conservation district shall cause notices to be posted in three public places in each election precinct of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each

precinct from the electors thereof a clerk, an inspector and two judges, who shall constitute a board of election for such precinct. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of the election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election designate the house or place within the precinct where the election must be held.

The ballot used at the election of directors of a water conservation district, after the election of directors on organization, shall be provided by the board of directors of a water conservation district, and one of the judges of election at every election of directors of a water conservation district shall deliver to each of the qualified voters one of the ballots so provided. The ballots to be used in each subdivision for the election of a director from said subdivision shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name; *provided*, that the ballots in each subdivision of the water conservation district shall have on them the names of the persons to be voted for as director to represent that subdivision only.

As soon as the polls are closed, the election officers shall count the votes cast at such election, and a certificate shall be drawn by said election officers stating the number of votes each candidate received, and the result of said election. The certificate as aforesaid shall be signed by an inspector and judge of such election board. The election returns shall be immediately delivered by the inspector or by some other safe and responsible carrier designated by said inspector to the secretary or other officer of the water conservation district board. No returns from election shall be set aside or rejected for want of form if they can be satisfactorily understood. The board of directors of the water conservation district must meet at the usual place of meeting on the first Monday after election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received the canvass must be postponed from day to day until all the returns have been received or until six (6) postponements have been made. The canvass must be made in public and by opening the returns and ascertaining the vote of each subdivision of the water conservation district for each director voted for and declaring the result thereof.

The person receiving the highest number of votes in any election held in a subdivision of a water conservation district for the election of directors shall be elected as director.

The secretary of the water conservation district must immediately make out and deliver to each person elected a director of a subdivision of the water conservation district a certificate of election signed by him and authenticated with the seal of said water conservation district.

At all elections held under the provisions of this act, including the election for organization of a water conservation district, the polls shall be opened at eight o'clock a.m. and remain open until six o'clock p.m. The inspector shall be chairman of the election board and may

administer all oaths required in the process of an election; and appoint judges, if, during the progress of the election, any judge ceases to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon him by law. Any voter of the precinct may administer and certify such oath. The board of directors of a water conservation district shall establish a convenient number of election precincts in each subdivision of a water conservation district and define the boundaries thereof, and at least one such precinct must be established for each subdivision of said water conservation district, and said board whenever it is deemed advisable for the best interests of said district and the convenience of the voters may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of any such election precincts, which changes when made must be entered upon the minutes of the board.

Except as herein otherwise provided, the manner of conducting and holding elections of a water conservation district, including the first election of directors, the qualifications of voters and the necessary number of votes to carry any proposition submitted at any election, shall be governed, as to each subdivision of said water conservation district, by the same laws, rules and regulations and amendments and modifications thereto of the particular district or districts, or unit or units, composing such subdivision. (Stats. 1925, p. 555.)

ISSUANCE OF BONDS.

Issuance of bonds.

SEC. 15. Except as herein otherwise provided, all the laws, rules and regulations and amendments and modifications thereto governing the voting, issuance, sale, form, contents, terms and conditions of bonds of each particular unit or district in which the same are voted and issued shall apply to and govern the voting, issuance, sale, form, contents, terms and conditions of the bonds herein authorized.

Except as herein otherwise provided, the manner of conducting and holding elections, qualification of voters, the necessary number of votes to carry any proposition submitted at any election shall be governed by the same laws, rules and regulations and amendments and modifications thereto of the particular district or unit in which said election is held.

Issuance and sale of water storage district bonds; assessment of costs.

SEC. 15a. Whenever at any election called pursuant to the provisions of section ten of this act the majority of the votes cast in any water storage district unit of a proposed water conservation district shall be in favor of the organization of the proposed water conservation district, and also in favor of said water storage district unit issuing and selling bonds for the purpose of said proposed water conservation district, and the state irrigation board shall enter its order as in this act is provided, that said water conservation district is established, then the said election so held in any such water storage district unit

shall be in all respects as effective to authorize a bond issue of any such water storage district unit as an election called and held under section twenty-four of the water storage district act, and the board of directors of such water storage district unit shall cause bonds in the amount stated in the order for such election, to be executed and delivered to the treasurer of said water storage district to the credit of the water conservation district fund of said water storage district unit in the manner and form and to the same effect as though said bonds had been authorized and issued after instead of before an assessment had been levied on the lands within such water storage district benefited by said water conservation district project in the amount stated in said order calling said election, which amount shall be that apportioned to such water storage district in the order of the state irrigation board apportioning to the several units in such proposed water conservation district its proportion of all the costs and expenses of the project of said proposed water conservation district.

The treasurer of such water storage district shall sell said bonds in the manner provided in section twenty-four of said water storage district act, and the proceeds of sale of said bonds shall be placed in the water conservation district fund of said water storage district. Any sale by such treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds, that such sale was made upon due authority and notice.

Whenever the state irrigation board shall have made its order that a water conservation district is established, with one or more water storage district units therein, the state engineer shall forthwith appoint three commissioners in each such water storage district unit, whose duty it shall be to assess the proportion of the costs of the water conservation district project apportioned to such water storage district unit by the state irrigation board in its final order of apportionment upon the benefited lands within such water storage district unit which shall be done in the same manner and with the same effect as though said project had been approved by a majority of the votes cast at an election called and held as provided in section nineteen of said water storage district act. The state irrigation board shall furnish the board of directors of each water storage district unit two correct copies of the report and estimate required to be kept on file in the office of the state irrigation board by section seven of this act and of the order required to be made by section eight of this act, and the said commissioners shall receive from the board of directors of the water storage district unit one of said copies in the place of the detailed plans, specifications and estimates of the costs of the project provided to be delivered to them by section nineteen of the water storage district act, and the rolls prepared by said commissioners when completed shall be accompanied by the written report of the commissioners wherein is set out with particularity the exact nature and quantum of the benefits so assessed to the benefited lands of the district in the project of such water conservation district apportioned and allotted to each such tract of land in said water storage district unit, including any benefits through any drainage or reclamation work connected therewith. In

such report lands embraced within a comprehensive area or a political subdivision of the state may be referred to generally as lands lying within such area or subdivision without further description. In other respects said rolls and report, and proceedings with relation thereto up to the filing of the same with the county treasurer, shall conform as near as may be to the requirements of said section nineteen of said water storage district act.

When the board of directors of such water storage district unit shall file with the county treasurer of a county within such district the assessment list or roll as finally approved as provided in said water storage district act, the charges assessed thereby upon the several tracts of land within the county shall constitute a lien thereon, which shall be prior to all other liens except state, county and municipal taxes, and assessments or taxes levied or assessed by or under statutory authority, and shall impart notice thereof to all persons.

All moneys collected by a county treasurer upon any assessment levied as in this section provided, including all moneys derived from the sale of land for delinquent installments or from redemption thereof, or from the sale of lands bought by such treasurer at any such sale as trustee of the water conservation district bond fund of the water storage district, shall be by such treasurer forthwith paid into the county treasury of the county from which the same arose, to the credit of a water conservation district bond fund which shall be created by such water storage district, and shall be used exclusively for the payment of principal and interest of said bonds issued on account of said water conservation district bond fund. Where bonds of such water storage district have been issued as herein provided, no act or conduct on the part of the board of directors of said water storage district or any officer mentioned in said water storage district act, or in this act, shall invalidate any assessment herein authorized to be made after the same shall have become a lien in the manner herein provided.

It is the purpose of this section to provide that any water storage district which may become a unit in a water conservation district, may authorize a bond issue as in this act provided, before it shall have levied an assessment upon the benefited lands in said water storage district, and that it may thereafter, by proceedings hereunder, levy an assessment upon the benefited lands to secure the payment of the bonds so issued as herein provided, and this section shall be liberally construed to accomplish that purpose. (Added Stats. 1925, p. 555.)

Issuance and sale of reclamation district bonds; assessment of costs.

SEC. 15b. Whenever at any election called pursuant to the provisions of section ten of this act the majority of the votes cast in any reclamation district unit of a proposed water conservation district shall be in favor of the organization of the proposed water conservation district, and also in favor of said reclamation district unit issuing and selling bonds in the amount allotted and apportioned to it by said state irrigation board for the purposes of said proposed water conservation district, and the state irrigation board shall enter its order, that said water conservation district be established, then the said election so

held in any such reclamation district units shall be and the same is as effective to authorize the issuance of said bonds of any such reclamation district unit as an election called and held under section three thousand four hundred eighty of the Political Code, and the board of trustees of such reclamation district unit shall cause bonds in the amount stated in the order for such election, to be executed and delivered to the treasurer of the county in which said reclamation district or the larger part thereof is situated in the manner and form provided by section three thousand four hundred eighty of the Political Code, and to the same effect as though said bonds had been authorized and issued after instead of before an assessment had been levied on the lands within said reclamation district benefited by said water conservation district project. Said bonds and the proceeds thereof shall be held by said treasurer to the credit of said reclamation district in a fund to be known and designated as the water conservation district fund.

The treasurer of said county shall sell said bonds in the manner provided in section three thousand four hundred eighty of the Political Code for the sale of the bonds of a reclamation district, and the proceeds of the sale of said bonds shall be placed in the treasury of said county to the credit of the water conservation district fund of said reclamation district. Any sale by such treasurer and delivery of the bonds thereunder, shall be conclusive evidence in favor of the purchaser and all subsequent holders of bonds that such sale was made upon due authority and notice.

Whenever the state irrigation board shall have made its order that a water conservation district is established with one or more reclamation district units therein, the board of supervisors of the county in which the said reclamation district or the greater part thereof is situated, shall forthwith appoint three (3) commissioners in each such reclamation district unit, who shall qualify as provided in section three thousand four hundred and fifty-five of the Political Code. Said commissioners shall assess the proportion of the costs of the water conservation district project apportioned to such reclamation district unit by the state irrigation board in its final order of apportionment upon the benefited lands within such reclamation district unit, which shall be done in the same manner and with the same effect as though the plan or plans of said water conservation district project had been prepared and approved in the manner provided in section three thousand four hundred fifty-five of the Political Code, and no hearing on said plans shall be held by, and no approval of said plans shall be required or made by either the reclamation board of the Sacramento and San Joaquin drainage district or by the board of supervisors of the main county of said reclamation district, but the said election held in said reclamation district unit pursuant to the provisions of this act shall constitute a final approval of said project and of the part therein apportioned to said reclamation district unit.

The state irrigation board shall furnish the board of trustees of each reclamation district unit three (3) correct copies of the report and estimate required to be kept on file in the office of the state

irrigation board by section seven, and three (3) copies of the order required by section eight of this act. Said board of trustees shall file one of each of said copies of said report and order with the secretary of said reclamation district, one each of said copies with the clerk of the board of supervisors of the main county of said reclamation district, and the said commissioners shall receive from the board of trustees of the reclamation district unit one of said copies of said report and order in place of the plan or plans of the works of reclamation, and the estimation of the costs of the contemplated works of the district provided to be made and reported to the board of supervisors by section three thousand four hundred fifty-five of the Political Code.

Said commissioners shall thereupon view and assess upon the land within said reclamation district unit the said sum apportioned to such reclamation district unit by the state irrigation board in its final order of apportionment, and shall apportion the same according to the benefits that will accrue to each tract of land in said irrigation district unit respectively by reason of the expenditures of said sums of money, and shall estimate the same in gold coin of the United States, and shall file with the clerk of the board of supervisors of the main county of said reclamation district an assessment list in the manner and form required by the Political Code for reclamation district assessments where the reclamation district is situated wholly outside of the Sacramento and San Joaquin drainage district. In addition to the matters required by the Political Code to be set forth in said assessment lists, said commissioners shall set forth in said lists the proportionate right of each assessed parcel of land in the share of said reclamation district unit in the project of said water conservation district.

The said board of supervisors shall thereupon appoint a time for hearing objections to the report and assessment lists of said commissioners; cause notice of said time and place of said hearing; hear and act on objections filed thereto until the amount of each assessment shall finally be fixed; shall then make an order approving said report and assessment list and shall endorse such order upon said assessment lists, which said endorsement shall be signed by the chairman of said board of supervisors and attested by the clerk thereof, all in the manner and form required by section three thousand four hundred sixty-two of the Political Code for hearing, equalizing, adjusting and finally determining assessments of reclamation districts, and such decision of said board of supervisors shall be final and thereafter said assessment list shall be conclusive evidence that the said assessment list has been made and levied according to law, except in an action commenced as provided in section three thousand four hundred sixty-two of the Political Code. The assessment lists shall then be filed with the county treasurer or if the reclamation district is situated in more than one county, then the original list must be filed with the county treasurer of the county where the greater portion of the lands of said district is situated, and copies thereof certified by the treasurer must be filed with the treasurer of each of the other counties. When the board of supervisors shall have finally taken action modifying or approving any assessment lists as provided herein and in section three

thousand four hundred sixty-two of said Political Code, the charges assessed thereby upon tracts of land within the county shall constitute a lien thereon and shall impart notice thereof to all persons, and in the event of the conveyance of a part of a tract of land in said district and in the absence of any provision in the instrument conveying the same, said lands so conveyed shall be deemed to share ratably in the benefits apportioned to the entire tract.

The sums so assessed must be collected and paid into the county treasury, as in section three thousand four hundred eighty of the Political Code provided, and be placed by the treasurer to the credit of the water conservation district fund of said reclamation district unit for the purpose of paying the principal and interest of such bonds and for no other purpose. All proceedings for the sale of lands for delinquent assessments and the redemption of such lands shall be in accordance with the provisions of section three thousand four hundred eighty of the Political Code.

Where bonds of such reclamation district unit have been issued as provided herein, no act or conduct on the part of the board of trustees of said reclamation district or any officer mentioned in article two, chapter one, title eight, part three of the Political Code or this act shall invalidate any assessment herein authorized to be made after the same shall have become a lien in the manner provided herein; but such trustees may be compelled by mandate or other proper proceedings to perform their duties as required by law.

It is the purpose of this section to provide that any reclamation district which may become a unit in a water conservation district may authorize a bond issue as in this act provided, before it shall have levied an assessment upon the benefited lands in said reclamation district, and that it may hereafter, by proceedings hereunder, levy an assessment upon the benefited lands to secure the payment of the bonds so issued as herein provided, and this section shall be liberally construed to accomplish that purpose. (Added Stats. 1925, p. 555.)

Directors—compensation and meetings of.

SEC. 16. The directors when sitting as a board or acting under the orders of the board shall receive not to exceed ten (10) dollars per day and twelve (12) cents per mile for each mile traveled from his place of residence to the office of the board, such mileage to be computed by the shortest traveled route, and all necessary expenses paid while engaged in official business under orders of the board.

The board of directors shall hold a regular meeting on the second Tuesday of each month at the place selected as the office of the board; *provided*, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is located. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and three days notice thereof must be given by the secretary to each director not joining in the order. The order must

specify the business to be transacted and no other business than that specified in the order may be transacted, at such special meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and a majority of the members shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn, or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the second Tuesday in any month, such act may be had or proceedings had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors.

Water and power survey by directors.

SEC. 17. The board of directors of a water conservation district shall, as soon as it is organized, proceed to make or cause to be made all such examinations, surveys, plans and specifications and estimates of costs for the acquisition, appropriation, diversion, storage, conservation and distribution of water, any drainage or reclamation works connected therewith and the generation of hydro-electric energy incident thereto and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary for the purposes of said water conservation district, as prayed for in said petition and the cost and expense thereof, and to make a report thereof as herein provided.

In such connection said board may use and adopt all previous estimates, surveys, reports and other data it may have acquired or which are available to it adapted to that purpose, and may employ all necessary engineers, attorneys and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of the water conservation district and shall be a legal charge against said water conservation district.

Upon the completion of said examination and study of the proposed project by said board, it shall prepare a report thereof in which report shall be set forth in detail the character and nature of the proposed works in order to carry said project to completion, such report to be accompanied by an estimate of the cost of said project. A copy of such report, plans and estimates shall be kept on file in the office of the board and open for inspection by all interested persons or parties. Such plans and reports may thereafter be modified at any regular meeting of the board by an affirmative vote of a two-thirds majority of all the members of said board.

POWERS AND DUTIES OF DIRECTORS.

Powers and duties of directors.

SEC. 18. The board of directors shall have the power and it shall be its duty to manage and conduct the business affairs of the water conservation district; to adopt a seal; to make and execute all necessary contracts; to employ and appoint such agents, officers and employees as it may require and prescribe their duties and fix their compensation.

The board shall have the right to enter upon any lands to make surveys, locate works or for any other necessary and lawful purpose. The board shall have the power to construct, maintain, improve and operate the necessary dams, reservoirs and works for the storage and distribution of water and any drainage, flood control and reclamation works connected therewith, and to provide for the generation and distribution of hydro-electric energy incidental to such storage and distribution.

The board shall also have the right to acquire by purchase, lease or contract, all lands, water, water rights or any use thereof or interest therein, and any other property or rights by it deemed necessary for the construction, maintenance, improvements and operation of the works or the carrying out of the project of the water conservation district, including the property and rights of private owners and stock of corporations.

Said board may also enter into, and do any act necessary or proper for the performance of, any agreement with any county, district, public corporation, or municipality of any kind, for any purpose appertaining to, or beneficial to, the project of the water conservation district, and may acquire the right to store water in any reservoir; or to carry water through any canal, ditch or conduit not owned or controlled by such water conservation district, and may grant to the owner or lessee of a right to the use of any water, permission to store such water in any reservoir of the water conservation district, or to carry such water through any canal, ditch or conduit of the water conservation district.

The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such water conservation district, to and for the use and purposes herein expressed, and to institute and maintain all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act; or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act or acquired in pursuance thereof. All contracts and other documents executed by the board shall be signed by its president and its secretary, under seal and in all actions, suits or proceedings the said board may sue, appear and defend in person or by attorneys and in the name of such water conservation district.

The said board shall have power generally to perform all such acts as may be necessary to fully carry out the provisions of this act.

Eminent domain; rights of way.

SEC. 19. The board of directors shall have the right and power to acquire by condemnation all lands, waters, water rights, or any use thereof, or interest therein, and any other property or rights, except the property or rights of the units thereof, by it deemed necessary for the construction, maintenance, improvement and operation of the works, or the carrying out of the project of the water conservation district. In the case of condemnation proceedings the board shall proceed in the name of the water conservation district under the provisions of section fourteen of article one as amended of the constitution of the State of California, and title seven, part three of the Code of Civil Procedure of California, and all pleadings, proceedings and process in said title provided it shall be applicable to the condemnation proceedings hereunder.

The board of directors shall have power to construct the said works across or intersecting any stream of water, water course, street, avenue, highway, railway, canal, ditch, or flume, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of said property, thing, or franchise to be so crossed, can not agree upon the amount to be paid therefor, or the points or the matter of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart for the location, construction, and maintenance of said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

Contracts for construction of projects.

SEC. 19a. The board of directors shall proceed to carry out the project of the district in accordance with the plans and specifications of the duly approved and adopted report of the board.

When such work is to be done said board shall give notice by publication thereof in the county in which the office of said board is located once a week for four successive weeks, calling for bids for same. If less than the whole work provided for in said plans and specifications is to be done and advertised, the portion to be done must be particularly described in said notice. Said notice shall refer to the plans and specifications of the work to be done and state that the same can be seen at the office of the board and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which at the time and place appointed shall be opened in public; and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or it may reject any and all bids and readvertise for proposals or may proceed to construct the works under its superintendence; *provided*, that in case of emergency or urgent necessity the board of directors, by unanimous vote of those present (provided there is a quorum present) at any regular or special meeting, may award contracts without advertising for bids, but the amount of said contract so awarded shall not exceed fifty thousand dollars (\$50,000). All contracts for the purchase of material shall be awarded to the lowest responsible bidder, provided the purchase price of such material is in excess of fifty thousand dollars (\$50,000).

Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to the water conservation district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the full and faithful performance of said contract.

The work shall be done under the direction and to the satisfaction of and be approved by the board.

It shall be the duty of the board to see that all contractors doing work for the conservation district carry compensation insurance on all employees.

Constituent districts may issue bonds.

SEC. 20. Each of the constituent districts or units of a water conservation district is hereby expressly authorized to vote, issue and sell its bonds for the purposes herein provided in this act, and said bonds are to be in all respects of the same force and effect, and of the same priority as a lien on property as other bonds voted, issued and sold by such constituent district or unit under the particular law or laws governing the voting, issuance and sale of bonds by such constituent district or unit.

The board of directors of a water conservation district shall estimate and determine, in the manner provided in section twenty-four hereof, the amount of money required by such board of directors of the total sum originally voted by all the constituent districts or units, and said board of directors shall thereupon apportion and allot to each of said constituent districts or units its proportion of the cost of said project. Said apportionment shall be made upon the same basis as was provided for in the original apportionment of the cost made by the state irrigation board, and thereupon said board of directors shall, by resolution duly adopted and entered upon the minutes of said board, make requisition upon each of said constituent districts or units for its proportion of said cost, and a copy of said resolution, duly certified to, shall be served upon the secretary or other officer of the governing board of each constituent district or unit. (Stats. 1925, p. 555.)

APPORTIONMENT AND ASSESSMENT OF COSTS.

Assessments and apportionment of additional expenses.

SEC. 21. If the amount originally contributed and paid into said water conservation district by said constituent districts or units shall be insufficient to complete the system and works of said project, the board of directors of said water conservation district, shall thereupon estimate and determine the amount required to complete said system and works, according to the original plans and specifications thereof, and shall thereupon apportion and allot to each of said constituent districts or units, its proper proportion of said additional cost of the completion of said system and works of said project; said apportionment shall be made upon the same basis as the original apportionment of the cost of construction of said system and works of said project, as is provided for in this act, and thereupon, the said board of directors shall, by resolution, duly adopted and entered upon the minutes of said board of directors of said water conservation district, make requisition upon each of said constituent districts or units for its proportion of said additional cost, and a copy of which said resolution, duly certified to, shall be served upon the secretary or other officer of the governing board of each constituent district or unit. Upon receiving said copy of said resolution, it shall be the duty of the governing board of each of said constituent districts or units, and each of said constituent districts or units is hereby given the power to levy, assess and collect an assessment in the amount called for by said resolution and requisition, which said amount shall be levied, assessed and collected in like manner as the levy, assess-

ment and collection of assessments under the particular law or laws governing the levy, collection and assessment of assessments of each of the said respective constituent districts or units.

Apportionment of cost of maintenance and operation; assessments; bonds.

SEC. 22. The board of directors of said water conservation district is hereby expressly given the power, and it shall be its duty, from time to time, as occasion may require, to estimate and determine the amount of money required, after the completion of said project, for the maintenance, repair and operation of said system and works and also for the expenses of the management and operation of said water conservation district, and shall also fix and allot the proportion of said estimated amount to be borne or paid by each of said constituent districts or units, which said allotment or apportionment, shall be in the same proportion to each of said constituent districts or units, as the apportionment or allotment of the original cost of said project as hereinbefore provided for. The board of directors of the water conservation district shall thereupon, by resolution, entered in its minutes, make requisition upon each constituent district or unit, for its proportion of said additional cost and expense, a copy of which said resolution duly certified, shall be served upon the secretary or other officer of the governing board of each constituent district or unit.

Upon receiving said resolution, it shall be the duty of the governing board of each constituent district or unit, and each constituent district or unit is hereby given the power to levy, assess, collect and pay over to said water conservation district, the amount of its proportion of said additional cost and expense. Such assessments shall be levied, assessed and collected by each constituent district or unit in like manner as the levy, assessment and collection of assessments, under the particular law or laws, governing the levy, assessment and collection of assessments of each of the said respective constituent districts or units.

Each constituent district or unit, in lieu of levying, assessing and collecting an assessment for the purpose of raising funds to pay its amount or share of any apportionment or allotment, as provided for in section twenty-one of this act, may vote, issue and sell bonds for the purpose of raising said funds, and each of said constituent districts or units is hereby expressly given and granted the power to vote, issue and sell bonds for said purpose.

CERTIFICATION OF BONDS.

Certification of bonds.

SEC. 23. Whenever the board of directors of any constituent district or unit of a water conservation district, shall by resolution, declare that it deems it desirable that any contemplated or outstanding bonds of such constituent district or unit issued under the provisions of this act, including any bonds of such constituent district or unit authorized but not sold, shall be available, for the purpose provided for in section seven of an act of the legislature of the State of California, entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies, and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, school districts or municipalities, and provid-

ing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, as amended, the said board of directors shall thereupon file a certified copy of such resolution with the commission created by, and provided for in, said act of June 13, 1913, which commission, and the state controller in connection therewith, are hereby given the same power and authority in respect of the investigation and certification of bonds issued by any constituent district or unit, under this act as is given to them in respect of the investigation and certification of irrigation district bonds by said act, as amended, except as the same may be limited by, or inconsistent with, any provision of this act, and bonds of any constituent district or unit provided for in this act which have been so investigated and certified and by authority of such investigation and certification are declared to be legal investments for the purposes stated in said act of June 13, 1913, as amended, may be lawfully purchased, or received in pledge for loans by savings banks, trust companies, insurance companies, guardians, executors, administrators, and special administrators, or by any public officer or officers of this state or of any county, city, or city and county, or other municipal or corporate body within this state having or holding funds which they are allowed by law to invest or loan.

GENERAL PROVISIONS.

Estimate of expenses.

SEC. 24. For the purposes of this act each calendar year shall be divided into two (2) fiscal periods, the first period consists of the first six (6) months of the year, and the second period consists of the second six (6) months of the year, and at the regular monthly meeting of March and September of each year, the water conservation district board shall estimate and determine the amount of money that said conservation district will require for the purposes provided by this act during the next succeeding fiscal period, and any requisition herein provided for in this act to be made by the water conservation district upon any of said constituent districts or units for the payment to said water conservation district of its proportional share of the amount of money required by said estimate and determination of said board of directors of said water conservation district shall be made at the beginning of said first period, and it shall thereupon be and become the duty of each of the said constituent districts or units to pay the same to said water conservation district before the commencement of the next succeeding fiscal period.

Claims.

SEC. 25. All claims against the water conservation district shall be paid by warrants of said water conservation district. Said warrants must be signed by the president and secretary of the board and drawn on the treasurer of the conservation district and paid by him out of the funds of such conservation district and said treasurer shall make a monthly report to the board of the money received by him of the amounts expended and the total sum on hand.

Directors not to be interested in contracts.

SEC. 26. No director or officer of the conservation district shall in any manner be interested directly or indirectly in any contract

awarded or to be awarded by the board, or in the profits to be derived therefrom; and for the violation of this provision such director or officer shall be deemed guilty of a misdemeanor, and conviction shall work a forfeiture of his office, and he shall be punished by a fine, not to exceed five thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Debts.

SEC. 27. The board of directors or other officers of a water conservation district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; any debt or liability in excess of such provisions shall be and remain absolutely void; *provided*, that nothing contained in this section shall be construed as limiting the right of the board to enter into any contract for the use or lease of any lands, water, water rights, or other property, as in this act provided and by such lease or contract to bind the district for the payment of the rentals or consideration specified in such lease or contract.

Distribution of water and power; sale of surplus.

SEC. 28. The board shall have power and it shall be its duty to distribute to each of the units of a conservation district the proportion of stored water to which it is entitled at its point of diversion from the stream, and may use a stream or natural water course for such purpose. The board shall also have power and it shall be its duty to distribute to the units of a conservation district the proportion of hydro-electric energy to which it is entitled and may desire for its use within such unit, same to be delivered at the place where it is generated; and all hydro-electrical energy not so distributed shall be sold by the board of directors of the conservation district, and the proceeds resulting from such sale shall be distributed to the units in accordance with their respective interests therein.

Limitations on board of directors.

SEC. 29. The board of directors of a water conservation district shall not have the power to modify, change or alter the distributing system or works of any of the constituent districts or units nor shall said board of directors have any jurisdiction or control over the distribution of water to the land owner within the boundaries of any of the constituent districts or units. Nor shall said board have the power to condemn by law the water, water rights or other property of a constituent district or unit without first having obtained a written consent of the managing board of such constituent district or unit.

Paramount interest of state; tax exemption.

SEC. 30. The rights of way, ditches, flumes, pipelines, drains, water rights, reservoirs and other property used for the purposes of a water conservation district and belonging to it shall not be taxed nor assessed for state, county or municipal purposes.

It is hereby declared that the State of California has a paramount interest in the storage, conservation and diversion of water, the prevention of floods, the irrigation, drainage, and reclamation of land and

the production of electric energy; and that such storage, conservation, diversion, irrigation, prevention of floods, reclamation, drainage, and production of electric energy will make productive vast quantities of land that are comparatively unproductive and will increase production, property valuations, and population in the state, make profitable the cultivation of small tracts and promote subdivision of larger tracts, and will promote the welfare and prosperity of all the people. The powers herein conferred upon the state irrigation board and the board of directors of a water conservation district and all other powers herein conferred are hereby declared to be police and regulatory powers and are necessary to the accomplishment of a purpose that is indispensable to public interests. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act and for domestic and other incidental and beneficial uses within such district, together with the rights of way for canals and ditches, sites for reservoirs and all other property required in fully carrying out the provisions of this act is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law.

Records, statements and reports.

SEC. 31. The state irrigation board and the board of directors of every water conservation district shall, respectively, cause to be entered in books to be kept for that purpose a complete and connected record of all their acts and transactions, which shall be kept and preserved on file in their respective offices and open to inspection by the public during business hours. Said records and all documents, instruments, or other papers filed as above provided, or a copy or copies of any thereof certified to by the secretary of the state irrigation board or the secretary of the board of directors of the water conservation district, shall be received in evidence without further proof in any court of this state, or before any board or tribunal authorized to hear or consider a matter wherein the same shall be properly admissible in evidence.

During the construction of any works in carrying out the project of any water conservation district, the board of directors of such district shall, at least every sixty (60) days, forward to the state engineer, a report of the progress of such construction, together with a statement of the amount or amounts paid for the doing of such work. The board of directors of a water conservation district, at their regular monthly meeting in January of each year, shall render and immediately thereafter, cause to be published in the county where the office of said board is situated, at least once a week, for two successive weeks, a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and the purpose of such disbursements.

Immediately after the publication of such statements, the board of directors of the water conservation district shall cause a copy thereof, accompanied by a report stating the progress of the work under construction and the general condition of the project, and whether or not the same is being satisfactorily and successfully carried out and any other matter which the board may deem proper to be filed with the state engineer who shall examine said statement and report and make to the board of directors such recommendations and comments as he may deem

proper and may publish said recommendations and comments in such manner as may be deemed advisable. Said state engineer may at any time make or cause to be made an examination of the affairs of any water conservation district within the state or call upon the board of directors of such district for such information as he may desire, and may make and publish such report thereon as he may deem advisable.

(NOTE—No section 32 appears in the act as enacted.)

Property of district.

SEC. 33. The legal title to all property acquired under the provisions of this act shall by operation of law, immediately upon the acquisition thereof, vest in the water conservation district by which it is acquired, and shall be held by such district in trust for the uses and purposes set forth in this act, and is hereby dedicated and set apart to said uses and purposes. The board of directors is hereby authorized and empowered to hold, use, manage, occupy, and possess said property and may determine by resolution duly entered upon its minutes, that any property, real or personal, held by the district is not necessary for the uses and purposes thereof and may sell the same for an adequate consideration; and a conveyance or transfer of any of the property of a district executed by the president and secretary of its board of directors in pursuance of a resolution of the board adopted as above provided, shall convey good title to the property.

Vested rights.

SEC. 34. Nothing in this act contained shall be so construed as to affect or impair the vested right of any person, association, or corporation to the use of water.

Title.

SEC. 35. This act shall be known and may be referred to in any action, proceeding, or legislative enactment, as the "California water conservation district act."

Constitutionality.

SEC. 36. If any section, subdivision, sentence, clause, or phrase of this act be for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act, and the legislature hereby declares that it would have passed this act and each and every other section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases of this act be declared unconstitutional.

Proceedings contesting validity of formation.

SEC. 37. Actions or proceedings contesting or attacking the validity of the formation of a water conservation district can only be commenced within thirty days from the date of the making by the state irrigation board of the final order establishing such water conservation district, as provided in section eleven hereof.

Actions or proceedings attacking or contesting the validity of any bond issue provided for in this act can only be commenced within thirty days after the declaration of the result of such election at which such bonds were voted.

Except as herein provided, actions or proceedings attacking or contesting any election under the provisions of this act can only be commenced within thirty days after the declaration of the result of such election. (Added Stats. 1925, p. 555.)

4. THE COUNTY WATER DISTRICT ACT.

An act to provide for the incorporation and organization and management of county water districts, and to provide for the acquisition of water rights or construction thereby of waterworks and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts.

(Approved June 10, 1913, Stats. 1913, p. 1049. Amended Stats. 1915, p. 26; 1917, p. 225; 1919, p. 816; 1923, p. 312; 1925, p. 530.)

ORGANIZATION.

Organization of district.

SECTION 1. A county water district may be organized and incorporated and managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied.

Who may organize.

SEC. 2. The people of any county, or city and county, or portion of a county, or city and county, whether such portion includes unincorporated territory or not, in the State of California, having a population of not less than one thousand inhabitants, may organize a county water district under the provisions of this act by proceeding as herein provided.

Petition and Election.

SEC. 3. A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of supervisors of the county in which the proposed water district is located, signed by the registered voters within the boundaries of the proposed water district, equal in number to at least ten per centum of the number of votes cast in said proposed county water district for the office of governor of this state at the last general election prior to the presenting of the petition; *provided*, that where one or more municipal corporations or part thereof is included in such proposed water district, such petition must be signed by at least ten per centum of the qualified electors of each such municipal corporations or part thereof and of the unincorporated territory included in such proposed water district so voting at such election. Such petition shall set forth and describe the proposed boundaries of such water district, and shall pray that the same be incorporated under the provisions of this act, and the text of such petition shall be published for at least two weeks before the time at which the same is to be presented in a least one, but not to exceed three newspapers printed and published in such county, together with a notice stating the time of the meeting at which same will be presented. When contained upon more than one instrument, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated.

With such publication there shall also be published a notice of the time of the meeting of the board when such petition will be considered and that all persons interested therein may then appear and be heard. At such time the board of supervisors shall hear the petition and those appearing thereon together with such written protests as shall have been

filed with the clerk of the board prior to such hearing by or on behalf of owners of taxable property situated within the boundaries of the proposed district and may adjourn such hearing from time to time, not exceeding four weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures, thereto shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which would be benefited by the formation of such district; nor shall any lands which will not, in the judgment of said board, be benefited by such district be included within such proposed district. Any person whose lands are benefited by such district may upon his application, in the discretion of said board, have such lands included within said proposed district.

Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. Upon the final determination of the boundaries of the district the board of supervisors shall give notice of an election to be held in said proposed water district for the purpose of determining whether or not the same shall be incorporated, the date of which election shall be not more than sixty days from the date of the final hearing of such petition. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words "_____ county water district"), and this notice shall be published at least two weeks prior to such election in at least one, but not to exceed three, newspapers printed and published in said county. At such election the proposition to be submitted shall be: "Shall the proposition to organize _____ county water district under (naming the chapter containing this act) of the acts of the fortieth session of the California legislature and amendments thereto be adopted?" And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of electors under the general election laws of the state. Within four days after such election the vote shall be canvassed by the board of supervisors. If a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory included in

such proposed water district shall be in favor of organizing such county water district, said board shall by an order entered on its minutes declare the territory enclosed within the proposed boundaries duly organized as a county water district under the name theretofore designated, and the county clerk shall immediately cause to be filed with the secretary of state and shall cause to be recorded in the office of the county recorder of the county in which such district is situated, each, a certificate stating that such a proposition was adopted. Upon the receipt of such last mentioned certificate the secretary of state shall, within ten days, issue his certificate reciting that the county water district (naming it) has been duly incorporated according to the laws of the State of California. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such county water district is situated. From and after the date of such certificate, the district named therein shall be deemed incorporated as a county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. In case less than a majority of the votes cast are in favor of said proposition the organization fails but without prejudice to renewing proceedings at any time in the future. (Amended Stats. 1915, p. 26.)

OFFICERS.

Election of directors.

SEC. 4. Within ninety days after the date of filing with the county clerk of the copy of the certificate of the secretary of state, provided for in section three of this act, the board of supervisors of the county in which the county water district is located shall make and cause to be entered upon its minutes at a regular meeting thereof an order calling an election in such county water district for the election of a board of directors for the county water district consisting of five members, each of whom shall be a resident and qualified elector of the county water district.

The order of the board of supervisors shall fix the date of the election which shall not be more than sixty days after the date of the order calling the election. The order shall also create one or more voting precincts within the district and establish a polling place in each precinct and appoint a board of election, consisting of one inspector, one judge and two clerks, to hold, conduct and make returns of the election.

The county clerk shall give notice of the election by publishing notice thereof for at least two weeks in one but not to exceed three newspapers published in the county. The notice of election so published shall state the purpose for which the election is to be held, describe the voting precincts, state the location of the polling place for each precinct, the name and position of the persons appointed election officers and the date on which the election will be held.

The election shall be conducted in accordance with the general election laws of the state so far as the same may be applicable and the returns canvassed by the board of supervisors of the county at its regular meeting next succeeding the date of the election.

In all cases where the boundaries of the county water district include both unincorporated territory and any incorporated municipality or municipalities, the board of directors of the district, in addition to the five directors elected, shall further consist of one additional director,

for each incorporated municipality within the boundaries of the county water district, and one additional director to be appointed by the board of supervisors of the county in which such district is located. Each such additional director for an incorporated municipality shall be appointed by the mayor or president of the board of trustees of the municipality for which such additional director is allowed, and the additional director for the county shall be appointed by the board of supervisors of the county. Any director so appointed need not be an elector or resident of the county water district. All directors elected or appointed shall hold office until the election and qualification or appointment and qualification of their successor. The term of office of directors elected under the provisions of this act shall be four years from and after the date of their election; *provided*, that the directors first elected after the incorporation of the county water district shall hold office only until the election and qualification of their successors as hereinafter provided. The term of office of directors appointed shall be six years from and after the date of their appointment. All vacancies occurring in the office of directors appointed shall be filled by appointment by the same authority as in the first instance.

All vacancies occurring in the office of directors who are elected shall be filled by appointment by the remaining directors elected and the person so appointed shall have all of the qualifications necessary to be elected a director, and shall hold office during the unexpired term.

In all cases where, under the provisions of this section, directors are to be appointed the first appointed directors shall be appointed by the mayor or the president of the board of trustees of incorporated municipalities and the board of supervisors not later than the date set for the election provided for in this section.

The election of directors of such county water district shall be in every fourth year after its organization, on the fourth Tuesday in March, and shall be known as the general water district election. A second election shall be held, when necessary, as hereinafter provided, on the third Tuesday after such general election and shall be known as the second water district election. All other elections which may be held by authority of this act, or of the general laws, shall be known as special water district election. (Stats. 1925, p. 530.)

Nomination and election of officers.

SEC. 5. (1) The mode of nomination and election of all elective officers of such water district to be voted for at any water district election and the mode of appointment of a director or directors by said mayor or mayors or by said board of supervisors shall be as follows and not otherwise.

(2) The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

(3) The petition of nomination shall consist of not less than twenty-five individual certificates, which shall read substantially as follows:

PETITION OF NOMINATION.

Individual Certificate.

State of California, } ss
County of _____ }
Precinct No. _____

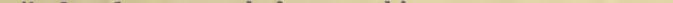
I, the undersigned, certify that I do hereby join in a petition for the nomination of _____, whose residence is at No. _____, _____ street, for the office of _____ of the _____ county water district to be voted for at the water district election to be held in the _____ county water district on the _____ day of _____, 19____; and I further certify that I am a qualified elector residing within said district, and am not at this time a signer of any other petition nominating any other candidate for the above named office, or, in case there are several places to be filled in the above named office, that I have not signed more petitions than there are places to be filled in the above named office; that my residence is at No. _____, _____ street, _____, and that my occupation is _____. Signed _____.

State of California, } ss
County of -----

----- being duly sworn, deposes and says that he is the person who signed the foregoing certificate and that the statements therein are true and correct.

(Signed) _____

Subscribed and sworn to before me this _____ day of
_____, 19___.



Notary public or verification deputy.

The petition for nomination of which this certificate forms a part shall, if found insufficient, be returned to _____ at No. _____ street, _____, California.

(4) It shall be the duty of the county clerk to furnish upon application a reasonable number of forms of individual certificates of the above character.

(5) Each certificate must be a separate paper. All certificates must be of uniform size as determined by the county clerk. Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more. Each signer must be a qualified elector residing within said district, must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, nor, in

case there are several places to be filled in the same office, signed to more certificates for candidates for that office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all such certificates shall be rejected. Each signer must verify his certificate and make oath that the same is true, before a notary public or a certification deputy, as provided for in this section. Each certificate shall further contain the name and address of the person to whom the petition is to be returned in case said petition is found insufficient.

(6) Verification deputies, under this section, must be qualified electors of such county water district, and shall be appointed by the county clerk upon application in writing, signed by not less than five qualified electors of such county water district. The application shall set forth that the signers thereto desire to procure the necessary signatures of electors for the nomination of candidates for office in said county water district at an election therein specified, and that the applicants desire the person or persons whose names and addresses are given appointed as verification deputies, who shall upon appointment be authorized and empowered to take the oath of verification of the signers of petitions of nomination. Such verification deputies need not use a seal, and shall not have power to take oaths for any other purposes whatsoever, and their appointments shall continue only until all petitions of nomination, under this section, shall have been filed by the county clerk.

(7) A petition of nomination, consisting of not less than twenty-five individual certificates for any one candidate, may be presented to the county clerk not earlier than forty-five days nor later than thirty days before the election. The county clerk shall endorse thereon the date upon which the petition was presented to him.

(8) When a petition of nomination is presented for filing to the county clerk, he shall forthwith examine the same, and ascertain whether or not it conforms to the provisions of this section. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition can not be filed, and shall return the petition to the person named as the person to whom the same may be returned in accordance with this section. The petition may then be amended and again presented to the clerk as in the first instance. The clerk shall forthwith proceed to examine the petition as hereinbefore provided. If necessary, the board of supervisors shall provide extra help to enable the clerk to perform satisfactorily and promptly the duties imposed by this section.

(9) Any signer to a petition of nomination and certificate may withdraw his name from the same by filing with the county clerk a verified revocation of his signature before the filing of a petition by the clerk, and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

(10) Any person whose name has been presented under this section as a candidate may, not later than twenty-five days before the day of election, cause his name to be withdrawn from nomination by filing with the county clerk a request therefor in writing, and no name so withdrawn shall be printed upon the ballot. If, upon such withdrawal, the number of candidates remaining does not exceed the number to be

elected, then other nominations may be made by filing petitions therefor not later than twenty-five days prior to such election.

(11) If either the original or amended petition of nomination be found sufficiently signed as hereinbefore provided, the clerk shall file the same twenty-five days before the date of the election. When a petition of nomination shall have been filed by the clerk it shall not be withdrawn or added to and no signature shall be revoked thereafter.

(12) The county clerk shall preserve in his office for a period of two years, all petitions of nomination and all certificates belonging thereto, filed under this section.

(13) Immediately after such petitions are filed, the county clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall not later than twenty days before the election certify such list as being the list of candidates nominated as required by the provisions of this act, and the board of supervisors shall cause said certified list of names and the offices to be filled, to be published in the proclamation calling the election at least ten successive days before the election in at least one but not more than three newspapers of general circulation published in the county in which such municipal water district is located. Such proclamation shall conform in all respects to the general state law governing the conduct of general elections now or hereafter in force, applicable thereto, except as otherwise herein provided.

(14) The county clerk shall cause the ballots to be printed and bound and numbered as provided by said general state law, except as otherwise required in this act. The ballots shall contain the list of names and the respective offices as published in the proclamation and shall be in substantially the following form:

GENERAL (OR SPECIAL) DISTRICT ELECTION,
----- COUNTY WATER DISTRICT,
(Inserting date thereof).

Instructions to Voters: To vote, stamp or write a cross (X) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector of election, and obtain another.

(15) All ballots printed shall be precisely on the same size, quality, tint of paper, kind of type, and color of ink, so that without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right-hand side for questions to be voted upon at municipal water district elections, as provided for under this act. The names of the candidates for each office shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

(16) The name of no candidate who has been duly and regularly nominated, and who has not withdrawn his name as herein provided shall be omitted from the ballot.

(17) The offices to be filled shall be arranged in the following order: "For director vote for (giving number)."

(18) Half-inch square shall be provided at the right of the name of each candidate wherein to mark the cross.

(19) Half-inch spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

(20) The county clerk shall cause to be printed sample ballots, identical with the ballot to be used at the election, and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail one such ballot to each voter entitled to vote at such election, so that all of said sample ballots shall have been mailed at least three whole days before said election.

(21) In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for the candidates for that office shall be declared elected; in case there are two or more persons to be elected to an office, as that of director, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected; *provided, however,* that no person shall be declared elected to any office at such first election unless the number of votes received by him shall be greater than one-half the number of ballots cast at such election.

(22) If at any election held as above provided there be any office to which the required number of persons was not elected, then as to such office the said first election shall be considered to have been a primary election for the nomination of candidates, and a second election shall be held to fill said office. The candidates not elected at such first election, equal in number to twice the number to be elected to any given office, or less if so there be, who receive the highest number of votes for the respective offices at such first election, shall be the only candidates at such second election; *provided,* that if there be any person who, under the provisions of this subdivision, would have been entitled to become a candidate for any office, except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes shall likewise become candidates for such office. The candidates equal in number to the persons to be elected who shall receive the highest number of votes at such second election shall be declared elected to such office.

(23) The said second election, if necessary to be held, shall be held three weeks after the first election.

(24) All the provisions and conditions above set forth as to the conduct of an election, so far as they may be applicable, shall govern the second election, except that notice of election need be published twice only; *and provided, also,* that the same precincts and polling places shall, if possible, be used.

(25) If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as hereinafter provided.

(26) The mode of appointment of director or directors by a mayor, or by a board of supervisors shall be by certificate of appointment signed by said mayor or mayors, or issued by said board of supervisors,

and transmitted to the board of directors of said county water district.

(27) No informality in conducting county water district elections shall invalidate the same, if they have been conducted of directors to fill a vacancy, or appointment by a mayor or by this act.

General laws to govern.

SEC. 6. The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable, shall govern all water district elections, except as in this act otherwise provided; *provided*, that the board of supervisors shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four days after any water district election, including any water district bond election.

Officers subject to recall.

SEC. 7. Every incumbent of an elective office, whether elected by popular vote for a full term, or elected by the board of directors to fill a vacancy, or appointed by a mayor or by said board of supervisors for a full term, is subject to recall by the voters of any county water district organized under the provisions of this act, in accordance with the recall provisions of the general laws of the state applicable to officers of counties.

Organization of board.

SEC. 8. The board of directors shall be the governing body of such county water district. It shall hold its first meeting on the sixth Monday after the first general election for the election of directors as herein provided; it shall choose one of its members president, and shall thereupon provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All legislative sessions of the board of directors whether regular or special shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business. The board of directors shall establish rules for its proceedings.

Ordinances.

SEC. 9. The board of directors shall act only by ordinance or resolution. The ayes and noes shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the board of directors. No ordinance or resolution shall be passed or become effective without the affirmative votes of at least a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the board of directors of _____ county water district as follows:". All resolutions and ordinances shall be signed by the president of the board of directors and attested by the secretary. Each of the members of the board of directors shall receive for each attendance at the meetings of the board ten dollars, and shall receive no other compensation. No director, however, shall receive pay for more than three meetings in any

calendar month. Any vacancy in the board of directors, whether the vacant office is elective or appointive, shall be filled by the remaining directors.

General manager, secretary, and auditor.

SEC. 10. The board of directors shall at its first meeting, or as soon thereafter as practicable, appoint, by a majority vote, a general manager, a secretary, and an auditor. No director shall be eligible to the office of general manager, secretary or auditor. The general manager, secretary, and auditor shall receive such compensation as the board of directors shall determine, and each shall serve at the pleasure of the board.

Informality not to invalidate.

SEC. 11. No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any county water district, and any proceeding wherein the validity of such incorporation is denied shall be commenced within three months from the date of the certificate of incorporation, otherwise said incorporation and the legal existence of said county water district, and all proceedings in respect thereto, shall be held to be valid and in every respect legal and incontestable.

POWERS AND DUTIES.

Powers of district.

SEC. 12. Any county water district incorporated as herein provided shall have power:

1. To have perpetual succession;
2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;
3. To adopt a seal and alter it at pleasure;
4. To take by grant, purchase, gift, devise, or lease; to hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;
5. To construct, purchase, lease or otherwise acquire waterworks and other works and machinery, canals, conduits and reservoirs, and to purchase, lease or otherwise acquire water rights, storage sites, water sheds, lands, rights and privileges, useful or necessary to convey, supply, store or otherwise make use of water for irrigation, power or other useful purposes, and to operate and maintain such water rights, waterworks, canals, conduits, reservoirs, storage sites, water sheds, works, machinery, lands, rights and privileges for the uses aforesaid for the benefit of the district;
6. To store water for the benefit of the district; to conserve water for future use; to appropriate, acquire and conserve water and water rights for any useful purpose; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or a benefit to any land situated therein; to commence,

maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters used or useful for any purpose of the district or a common benefit to the lands within the district or its inhabitants; and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger the inhabitants or lands of the district;

7. To lease of and from any person, firm or public or private corporation, with the privilege of purchase, or otherwise, existing water rights, waterworks, canals, or reservoir systems; and to carry on and maintain the same; also to sell water, or the use thereof, for irrigation, power, or other useful purposes, and whenever there is a surplus, sell, or otherwise, dispose of the same, to municipalities, or towns, or to consumers, located within or without the boundaries of the district;

8. To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing water rights, canals, reservoirs, storage sites, water sheds, waterworks or systems, or any portion thereof owned by any person, firm or corporation; *provided*, that property and water rights of municipal corporations shall not be subject to the provisions of this section. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

9. To cooperate and contract with the United States, under the federal reclamation act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of congress heretofore or hereafter enacted, authorizing or permitting such cooperation or contract for purposes of construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, and to carry out and perform the terms of any contract so made;

10. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

11. To cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided;

12. To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers. (Amended Stats. 1919, p. 816; Stats. 1923, p. 312.)

Powers exercised by board.

SEC. 13. The powers herein enumerated shall, except as herein otherwise provided, be exercised by the board of directors above provided for and elected and appointed as described herein.

Duties of officers of board.

SEC. 14. The president shall sign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed by the board of directors. The secretary shall give his full time during office hours to the affairs of the district. The general manager shall have full charge and control of the maintenance, operation and construction of the waterworks or waterworks system of said water district, with full power and authority to employ and discharge all employees and assistants at pleasure, prescribe their duties, and shall, subject to the approval of the board of directors, fix their compensation. The general manager shall perform such other duties as may be imposed upon him by the board of directors. The general manager shall report to the board of directors in accordance with such rules and regulations as they may adopt. The auditor shall be charged with the duty of installing and maintaining a system of auditing and accounting that shall completely and at all times show the financial condition of the district. He shall draw warrants to pay demands made against the district when such demands have been first approved by at least three members of the board of directors and by the general manager. The board of directors shall also designate a depositary or depositaries to have the custody of the funds of the district, all of which depositaries shall give security sufficient to secure the district against possible loss, and who shall pay the warrants drawn by the auditor for demands against the district under such rules as the directors may prescribe. The general manager, secretary and auditor, and all other employees or assistants of said district who may require so to do by the board of directors, shall give bonds to the district conditioned for the faithful performance of their duties as the board of directors from time to time may provide.

Bonded indebtedness. Election. Notice. Publication. Canvass of returns.

SEC. 15.¹ Whenever the board of directors deem it necessary for the district to incur a bonded indebtedness, it shall by resolution so declare, and state in said resolution the purpose for which the proposed debt is to be incurred and the amount thereof, and shall by said resolution fix a time and place for a hearing by the board on the question as to whether the whole district or only a portion thereof will be benefited by the accomplishment of said purpose, and if only a portion thereof will be so benefited, what portion will be so benefited. Notice of such hearing shall thereupon be given by the secretary of said board of directors by publication of a copy of said resolution in some newspaper printed and published in said district for at least two weeks and, if there be no newspaper printed and published in said district, by posting a copy thereof in three public places within said district at least two weeks before the time fixed for said hearing. Said copy of said resolution so published or posted shall be accompanied by notice subscribed by said secretary, with the seal of the district attached, to the effect that the hearing referred to in said resolution will

¹ See note following section 22.

be had at the time and place specified in said resolution and at said time any person interested, including all persons owning property in said district, will be heard upon the question stated in said resolution. At the time and place fixed in said resolution for said hearing, or at such time and place to which said hearing may be adjourned, said board of directors shall proceed with said hearing and any person interested, including any and all persons owning property within said district, may appear and present any and all such matters material to said question as he may desire. Upon the conclusion of said hearing, said board of directors shall by resolution determine whether the whole of said district will be benefited by the accomplishment of the purpose stated, and if it determines that the whole of said district will not be so benefited by the accomplishment of said purpose, it shall state what portion of the district will be so benefited, describing the same in a manner sufficient for identification and that portion of the county water district so described shall thereupon constitute and be known as Improvement District No.----- of ----- county water district, and the proceedings thereafter for the purpose of the bond election within said improvement district and for the purpose of taxation for the payment of said bonds and interest shall be limited, and apply only to said improvement district of said county water district. The determination of the board of directors on this question shall be final and conclusive. The resolution of the board of directors expressing its determination in the matter having been adopted, said board of directors, if they deem it necessary to incur such bonded indebtedness, shall by a resolution so declare and state the purpose for which the proposed debt is to be incurred, whether or not the whole of the county water district is to be benefited thereby or only a portion thereof, and if only a portion thereof, a description of such portion sufficient for identification and the designation thereof as hereinafter provided for all in accord with the determination of the board as expressed in its previous resolution, the amount of debt to be incurred, the maximum term the bonds to be issued shall run before maturity, which shall not exceed forty years, and the amount or rate of interest to be paid which shall not exceed seven per cent per annum, payable annually or semi-annually and the proposition to be submitted to the electors. The board of directors shall fix a date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred. It shall be the duty of the board of directors to provide for holding such special election on the day so fixed, in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Such board of directors shall give notice of the holding of such election, which notice shall contain the resolution calling the election adopted by the board of directors of the water district, boundaries of voting precincts, which shall include therein only such portions of the district as will be benefited, as stated in such resolution, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. Such notice shall be published for two weeks in at least one newspaper printed and published in such water district, which newspaper or news-

papers shall be designated by the board of directors; and if there is no newspaper printed and published in such water district, then by posting such notice in three public places in the said county water district if the entire water district has been found to be benefited or otherwise in said improvement district so created therein. Every qualified elector residing within such voting precincts, but no others, shall be entitled to vote at such election. All the expenses of holding such election shall be borne by the county water district. The returns of such election shall be made to and the votes canvassed by said board of directors on the first Monday following said election, and the results thereof ascertained and declared in accordance with the general election laws of the state, so far as they may be applicable, except as herein otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such result. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted. Except as otherwise provided for herein, said election shall be called, managed and directed as is by law provided for general elections in this state applicable thereto. (Stats. 1923, p. 314; 1925, p. 987.)

Two-thirds vote necessary.

SEC. 16. If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the board of directors may, by resolution, at such time or times as it deems proper, provide for the form and execution of such bonds and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such times or in such manner as it may deem to be to the public interest.

Value of bonds issued.

SEC. 17. Any bonds issued by any district organized under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the State of California.

Power to construct works.

SEC. 18. The board of directors shall have power to construct works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said works may intersect or cross; *provided*, such works are constructed in such manner as to afford security for life and property, and said board of directors shall restore the crossings and intersections to their former state as near as may be, or in a manner not to have impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall unite with said board of directors in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this state, and to have the same rights and privileges appertaining thereto as have been or may be granted to the municipalities within the state.

WATER RATES AND TAXES.

Water rates.

SEC. 19. The board of directors shall fix all water rates, subject to the power of the state railroad commission to fix rates for water furnished to municipal corporations and their inhabitants, and shall through the general manager collect the charges for the sale and distribution of water to all customers. (Amended Stats. 1915, p. 26.)

Rate to pay operating expenses.

SEC. 20. The board of directors in the furnishing of water shall fix such rate as will pay the operating expenses of the district, provide for repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and, so far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may become due; it being the intention of this section to require the district to pay the interest and principal of its bonded debt from the revenues of the district.

Tax levy to pay deficit.

SEC. 21.² If, from any cause, the revenues of the water district shall be inadequate to pay the interest on or principal of any bonded debt as it becomes due or any other expenses or claims against the district, then the board of directors must, at least fifteen days before the first day of the month in which the board of supervisors of the county or city and county in which such district is located is required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board of supervisors and to the auditor, respectively, an estimate in writing of the minimum amount of money required by the district for the payment of the principal of or interest on any bonded debt as it becomes due, together with a description of the portion of the district benefited thereby, as stated by the board of directors in the resolution declaring the necessity to incur such bonded indebtedness, and also of the minimum amount of money required by the district for any other purpose in this section set forth, and the board of supervisors of such county or city and county must annually, at the time and in the manner of levying other county or city and county taxes and until any such bonded debt is fully paid, levy upon the property within the portion of the district so benefited and cause to be collected, a tax sufficient for the payment of the principal of and the interest on such bonded indebtedness to be known as the "----- county water district bond tax"; and until all other expenses or claims are fully paid, levy upon all of the property within the district and cause to be collected a tax sufficient for the payment thereof to be known as the "----- county water district water tax." Where with relation to any such bonded indebtedness, the determination of the board of directors as expressed in its resolution shall have been to the effect that the whole of the said district was benefited by the purpose thereof, it will be sufficient for the purpose of this section to simply state that the whole of the district was so benefited. (Stats. 1923, p. 313; 1925, p. 987.)

² See note following section 22.

Levy and collection of tax.

SEC. 22.³ Such taxes for the payment of the interest on or principal of any such bonded debt shall be levied on the property within the portion or portions of the district benefited thereby as stated by the board of directors in accordance with their determination in the resolution declaring such determination, as well as in their resolution declaring the necessity for such indebtedness, and all taxes for other purposes shall be levied on all property in the territory comprising the district. All such taxes shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be paid to the district for which such taxes were levied and collected. Such taxes, if for the payment of a bonded debt or the interest thereon, shall be a lien on all the property benefited thereby, as so stated in the resolution of the board of directors aforesaid, and all taxes for other purposes shall be a lien on all the property in the territory comprising the district; and said taxes, whether for the payment of a bonded indebtedness or the interest thereon or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection shall be enforced by the same means as provided for in the enforcement of liens for state and county taxes. (Stats. 1915, p. 29; 1923, p. 315; 1925, p. 987.)

GENERAL PROVISIONS.**Initiative.**

SEC. 23. Ordinances may be passed by the electors of any county water district organized under the provisions of this act in accordance with the methods provided by the general laws of the state for direct legislation applicable to counties.

Referendum.

SEC. 24. Ordinances may be disapproved and thereby vetoed by the electors of any such county water district by proceeding in accordance with the methods provided by the general laws of the state for protesting against legislation by counties.

Adding to district.

SEC. 25. Any portion of a county or any municipality, or both, may be added to any county water district organized under the provisions of this act, at any time, upon petition presented in the manner herein provided for the organization of such water district, which petition may be granted by ordinance of the board of directors of such water district. Such ordinance shall be submitted for adoption or rejection to the vote of the electors in such water district and in the proposed addition, at a general or special election held as herein provided, within seventy days after the adoption of such ordinance. If such ordinance

³NOTE—Chapter 457 of the Statutes of 1925 (p. 987), which amended sections 15, 21 and 22 of this act, contained the following section, which must be interpreted as a limitation on these three sections:

SEC. 4. This act shall have no effect with regard to any bonded indebtedness of the district heretofore authorized by vote of the electors of the district in accord with the law in force at the time of such authorization, whether all of said bonds so authorized have been heretofore issued and sold or not, but all such bonds so authorized may be issued and sold in conformity with the law in force at the time of such authorization, and all provisions of such laws applicable to such bonds at the time of such authorization shall, with regard to said bonds, continue in full force and effect.

is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county recorder of the county in which such water district is located. Upon the receipt of such last mentioned certificate the secretary of state shall, within ten days, issue his certificate, reciting the passage of said ordinance and the addition of said territory to said district. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such county water district is situated. From and after the date of such certificate the territory named therein shall be deemed added to and form a part of said county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

Other water acts not repealed.

SEC. 26. Nothing in this act shall be so construed as repealing or in any wise modifying the provisions of any other act relating to water or the supply of water to, or the acquisition thereof by counties or municipalities within this state. The term "municipality," as used in this act, shall include a consolidated city and county, city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing and those hereafter organized for municipal purposes within such water districts. The term "county" shall be understood and construed to include "city and county." In municipalities in which there is no mayor the duty imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees or other chief executive of the municipality. The word "district" shall apply, unless otherwise expressed or used, to a water district formed under the provisions of this act, and the word "board" and the words "boards of directors" shall apply to the board of directors of such district. Any county water district heretofore organized under the provisions of the act of which this act is amendatory shall enjoy all the powers herein granted and the organization of such districts and all proceedings leading to such organization are hereby affirmed and validated and such districts are hereby declared to be duly organized and incorporated. (Amended Stats. 1915, p. 26.)

Duties performed by registrar of voters.

SEC. 27. Whenever a registrar of voters in any county, or city and county, shall be appointed, or elected, under the provisions of law, or charter providing therefor, the duties imposed on the county clerk by the provisions of this act shall be performed by the registrar of voters with like effect, and in such case all papers or documents required to be filed with the county clerk shall be filed with said registrar of voters when so appointed or elected.

Exclusion of territory.

SEC. 28. Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose

assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars, to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be returned to the petitioner. Upon the filing of such petition with the secretary of the water district he shall call a meeting of the board of directors of the district at a time not less than twenty-five days nor more than fifty days after the filing of the petition and cause a notice of the filing of such petition to be published for at least two weeks in some newspaper of general circulation within said district, if there be one, and if not, in some newspaper of general circulation published in the county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; *provided*, that the board may adjourn the hearing to a more convenient meeting place within the district. Any landowner or taxpayer within the district shall have the right to appear at said hearing, either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer included in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county in which the district is situated and the record of such certified copy shall be deemed *prima facie* evidence of the exclusion from the district of the lands purporting to be excluded thereby.

The board of directors of any county water district formed under the provisions of this act may itself initiate the proceedings for the exclusion from the district of any land or lands which it may not be for the best interests of the district to be included, or which may not be benefited in any manner by their continued inclusion therein. Such proceedings shall be initiated by the board of directors by the passage

of a resolution requiring all persons interested to appear and show cause before the board of directors, at a time and place specified, why such lands, describing them, should not be excluded from the district and fixing a time and place for such hearing and directing the secretary of the district to give notice of the passage of such resolution and of such hearing. Upon the passage of such resolution the secretary of the district shall give notice thereof and of the time and place of such hearing in the manner hereinbefore prescribed for notice of hearing upon petition by a landowner or landowners, and thereafter all proceedings shall be had in the manner and with the effect herein provided for proceedings upon a petition by a landowner or landowners. The time of hearing fixed by the board of directors by its resolution hereinbefore mentioned shall be not less than twenty-five days nor more than fifty days after the passage of such resolution and the place of hearing so fixed shall be a convenient place within the district; *provided*, that the final action of the board of directors under this section shall be subject to the referendum by the electors of the water district according to section twenty-four of this act. (Added Stats. 1917, p. 225.)

5. THE WATER DISTRICT ACT.

An act providing for the organization of water districts by the board of supervisors of the different counties of the state upon petition therefor by the land owners; providing for the joint government and control thereof by the land owners thereof and the board of supervisors of the county in which the same are formed; providing for the duties in connection therewith of the county officials of each county in which any of the lands contained in said district are located; providing for the acquisition and construction by said district of irrigation works, for the irrigation of the lands embraced therein and for the distribution thereby of water for irrigation purposes; providing for the payment of the debts thereof by a tax levied on the lands embraced therein; providing for the issuance and sale of bonds thereby; providing that said bonds may be investigated by an appointive board of three hydraulic engineers; providing for the approval of said bonds by the state superintendent of banks in case said investigation is favorably reported and that thereafter said bonds may be lawfully purchased, or received in pledge as security for any money or deposits or for the performance of any act, by banks, banking institutions, insurance companies, trust companies, guardians, executors, administrators and special administrators; providing in certain cases for the transfer of districts from the supervision of one county board of supervisors to another; and providing for the dissolution of said districts for nonuse of corporate power.

(Approved June 13, 1913, Stats. 1913, p. 815. Amended Stats. 1917, p. 1409; Stats. 1921, p. 1142.)

ORGANIZATION.

Organization of water districts. Petition. "Evidence of Title."

SECTION 1. The holders of title or evidence of title to a majority in area of lands which are susceptible of irrigation from a common source and by the same system of works may propose the organization of a water district by signing and presenting to the board of supervisors of the county in which the lands or the greater part thereof are situated, at any of its regular meetings, a petition setting forth the following facts,—that they propose to form under the provisions of this act a water district to be known as the "(- - - - -) Water District"; the boundaries thereof; a description of the lands contained therein by legal subdivisions or other boundaries, specifying the county in which the same are located; the number of acres in the proposed district and in each parcel or tract of land contained therein with the names, if known, of the owners thereof, and, if not, designating them as "unknown"; the place where the principal business thereof is proposed to be transacted; and the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated. The words "title or evidence of title" as used in this section include the possessory rights of entrymen or purchasers of public lands under any law of the United States or of this state whether evidenced by receipts or otherwise. The records of the United States land office for the district in which said lands are located; the records of the state land office; and the records in the office of the county recorder of the county in which

said lands are situated shall be conclusive evidence of ownership for the purposes of this section.

Lands within irrigation district.

SEC. 1a. All or any part of lands embraced within the boundaries of any irrigation district now or hereafter organized under any law or laws whatsoever of the State of California may be organized into or included in a water district formed under the provisions of this act; *provided*, that eighty per cent of the land within the boundaries of the proposed water district is not under irrigation at the time of the formation of the water district; *provided, further*, that no land within an irrigation district which is also within the boundaries of a water district formed under the provisions hereof shall be released from any of the burdens, obligations, liabilities, or control of or under said irrigation district by virtue of the formation of the water district and shall in every respect continue to be a part of said irrigation district despite the formation of said water district; *provided, further*, that such water district may not issue bonds in excess of such an amount as may be authorized and designated by the irrigation district bond commission created by the act entitled, "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, or such other state commission, department or agency that may supersede said commission or succeed to its functions. (New section added Stats. 1921, p. 1142.)

Publication of petition. Fixing boundaries. District declared organized.

SEC. 2. A copy of said petition and a notice signed by one or more of the petitioners stating the time and place at which the petition will be presented to and heard by the board of supervisors shall be published once a week for four weeks in some newspaper of general circulation published in the county where said proceedings are to be held. Proof of publication must be attached to the petition and filed with the clerk of the board on or before the day on which the petition is presented. During the hearing, or any continuation thereof until concluded, the board must keep a full and complete record of all the proceedings and shall preserve the evidence of all persons appearing and testifying therein. If, at the hearing, it shall appear that the petition has been prepared and presented in the manner required by law and that it contains the required and properly qualified signatures thereto, the board shall enter its order approving the same. Thereupon the board shall fix the boundaries of the district and to that end may exclude therefrom any lands improperly included therein by the petitioners; and after a hearing thereon pursuant to a notice thereof published for the time and in the manner required for the publication of the petition (proof whereof has been filed with the clerk of the board on or before

the date of said hearing) shall include in said district any land which shall appear to have been improperly excluded therefrom by the petitioners; and the board shall appoint until such time as their successors are elected and shall have qualified as in this act provided and from among those qualified to serve, a board of directors and an assessor. The various orders of the board approving the petition, fixing the boundaries of the district and appointing its officials shall be indorsed upon or attached to the petition, and be signed by the president and attested by the clerk of the board and it must then be by them filed for record with the county recorder of each county in which any of the lands contained in said district are located, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. When said documents have been so recorded, the district shall be and is hereby declared to be legally organized and shall have power to sue and be sued.

Tax for preliminary expenses.

SEC. 2a. Immediately upon the formation of the district as provided in section two hereof, the board of directors of the district shall have the power to levy and collect the sum of fifty cents per acre for each and every acre of land within the district and all such moneys thus collected shall be used by the board of directors to pay the preliminary expenses incurred in forming the district. (New section added Stats. 1921, p. 1143.)

Determination of legality of district.

SEC. 3. Any district formed hereunder; in order to determine the legality of its existence, may institute a proceeding therefor in the superior court of the county in which it was organized by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal water district formed under the provisions of this act. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed with the complaint any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district. If no answer shall be filed within said time the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

By-laws. Evidence of ownership.

SEC. 4. The district must adopt for the government and control of its affairs a code of by-laws, not inconsistent with the constitution and laws of the state or the provisions of this act. Sixty days after they

shall have qualified for office the board of directors shall prepare by-laws for the written approval of the board of supervisors of the county in which the district was organized, and, when said by-laws are approved, shall adopt the same by resolution entered in the minutes of the meeting, unless, prior thereto, by-laws shall have been adopted and filed with the secretary of the district by the written assent of the holders of title or evidence of title, including such aforesaid possessory rights, to a majority in area of the lands embraced in said district. The records of the United States land office for the district in which said lands are located; the records of the state land office; and the records in the office of the county recorder of the county in which said lands are situated shall be conclusive evidence of ownership for the purposes of this section. The by-laws shall provide for: the manner of calling, and the time, place and manner of conducting all elections and the manner of giving notice thereof; the mode of voting in person or by proxy; the qualifications and duties of officers, the tenure of their office, the time and manner of their appointment or election; their compensation; the place at which the principal business of the district is to be transacted and the mode of changing the same; the mode of amending or repealing the by-laws and suitable penalties for the violation of the by-laws not to exceed in any one case two hundred dollars for any one offense. The by-laws may be repealed or amended, or new by-laws may be adopted by the assent of two-thirds of the total vote of the district, given either in writing or by ballot cast at an election of the district. The by-laws in their original form, and any repeal thereof, or amendment or addition thereto, must, together with the approval of the board of supervisors and the resolution of the directors, or the written assent thereto or a memorandum of the returns of the election at which the assent was given, be certified by a majority of the directors and the secretary of the district and must be filed for record with the county recorder of each county in which any of the lands contained in said district are located and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. Until so recorded, no by-law, addition thereto, amendment or repeal thereof, can be enforced against any person not having actual notice of the same.

OFFICERS—POWERS AND DUTIES.

Officers of district. Vacancies. Salaries.

SEC. 5. The officers of the district shall be a board of five directors, a secretary, and an assessor, all of whom shall except as herein otherwise provided, be elected by ballot, except the secretary, who shall be appointed by the board of directors. No person shall be qualified to hold any of said offices, except that of secretary, unless he is a holder of title or evidence of title, including such aforesaid possessory rights, to lands contained in the district. Each appointee to office or officer-elect shall forfeit his office unless within ten days after he has notice of his election or appointment or before the expiration of ten days from the commencement of his term of office, when no such notice is given, he shall have filed for record with the county recorder of each county in which any of the lands contained in said district are located, a written acceptance of his office which shall be recorded in a book

kept for the purpose of recording instruments and writings relating to the district. If any office shall become vacant by forfeiture, death, resignation, or from any other cause, the same shall be filled by appointment,—by the board of directors in case of vacancy in the office of secretary, and by the board of supervisors of the county in which the district was organized in all other cases. Until such time as their salaries shall have been fixed by the adoption of by-laws, the officers of the district shall receive the following compensation for their services: the secretary and assessor such sum each as shall be fixed by the board of directors; and the directors five dollars each for each directors' meeting attended or for each day's service rendered as a director by order of the board of directors, together with any expenses incident to such service, except expenses incurred in traveling between his place of residence and the place at which directors' meetings are held.

Organization of board; meetings, etc. Quorum. Records open to inspection.

SEC. 6. The board of directors shall choose from among its members a president; shall appoint the secretary of the district; shall select and maintain an office for the district in the principal place of business thereof and shall hold regular meetings therein at such time and place as may be agreed upon by resolution adopted, and shall hold therein such other meetings as, from time to time, may be deemed advisable; *provided*, that no meetings, except regular meetings, shall be valid unless prior thereto each director shall have filed with the secretary his written consent to the same, or unless the president, or three members of the board of directors, shall have called the same by giving each of said directors five days' written notice thereof, or unless said directors shall have authorized the same by resolution adopted at a former meeting and shall have caused five days' written notice thereof to be given by the secretary to each director not joining therein. A majority of the board of directors shall constitute a quorum for the transaction of business. The vote of a majority of those present at any meeting where a quorum is had shall be necessary to determine any proposition or resolution presented. The secretary shall keep a record of all the proceedings had at meetings of the board of directors. The books, maps, papers, contracts, records and other documents pertaining to the affairs of the district shall be filed in the office of the district with the secretary and must be open to inspection at all times by any persons interested.

Duties and powers of board. Not to let contracts until bonds are sold.

SEC. 7. It shall be the duty of the board of directors to manage and conduct the affairs of the district and to that end it shall, in the name of the district, have power to plan, construct, maintain and keep in repair the irrigation works necessary or proper to supply the lands contained therein with sufficient water for irrigation purposes; to acquire by purchase, condemnation or other legal means all water, water rights, lands, properties or rights in properties necessary or proper therefor; to lease or sell for a valuable consideration any property, or right in property, belonging to the district and no longer

necessary to its use and purpose; to take conveyances, contracts, leases or other assurances for property acquired by the district under the provisions of this act; to execute by its president and secretary all contracts, leases, conveyances and other documents necessary to carry out the duties and powers specified herein; to institute, maintain and defend in person, or by attorneys, all actions, proceedings or suits at law or in equity necessary or proper to carry out the provisions of this act, or to enforce, maintain, protect or preserve the rights, privileges and immunities created by or acquired in pursuance thereof; to establish, print and distribute among the land owners of the district equitable rules and regulations for the distribution of water; to enter, for the above purposes, either in person or by its agents or employees, in and upon any lands contained in the district; to employ or fix the salary of such persons as may be necessary or proper to fully carry out the uses and purposes of the district; and to do any other lawful thing necessary or proper to carry out the provisions of this act or the uses and purposes for which the district is formed; *provided, however*, that the board of directors shall not let, or enter into, a contract for the construction of irrigation works, nor shall said board of directors construct the same by employees of the district until an election has been called and held to determine whether or not bonds of the district shall be issued as provided in section thirteen of this act, nor, in case bonds are voted, until eight-five per cent of the total amount of said bond issue has been sold and the money received thereon, as provided in section eighteen hereof.

TAXES.

Annual estimate of funds needed. Assessment. Hearing of objections. Tax rate. Charge against each parcel computed. Appeal from decision of supervisors.

SEC. 8. Between thirty and ninety days after the organization of the district, and between said dates annually thereafter, the board of directors must file with the clerk of the board of supervisors of the county in which said district was organized an estimate of the sum required by the district to discharge the unpaid matured obligations thereof at that date and the obligations thereof that will mature or that it is probable will be incurred and mature during the two years next following, specifying that portion of said estimate which will be required for the payment of bonds and of the interest on bonds.

Assessment.

Between the date on which the district was organized and ninety days thereafter, and between said dates in each succeeding year, the assessor must view the lands of the district and assess each parcel or tract of land contained therein at the cash value of the benefit derived by it from the construction and maintenance or proposed construction and maintenance of irrigation works and said assessor must, within said time, file with the clerk of said board of supervisors, an assessment-book, with appropriate headings, in which must be listed each parcel or tract of land within the district, specifying,—(1) the name, if known, (and, if unknown, stating that fact) of the holder of title or evidence of title, including such aforesaid possessory rights, thereto;

(2) the description thereof by legal subdivisions, metes and bounds, or other boundaries sufficient to identify the same; and (3) the value assessed thereon. If the district is contained in more than one county, then the assessment-book shall be prepared with a separate part in a separate volume for the lands of each county.

Hearing of objections.

Within sixty days after the said estimate and the said assessment list shall have been filed as above provided, the said board of supervisors, acting as a board of equalization, shall meet and hear any verified, written objections, stating the ground therefor, to the assessment as made, which objections shall, prior to the hearing, be filed with the clerk of said board. Prior to the hearing, and during the office hours of said board of supervisors, the assessment list shall be open to public inspection. At the hearing, which must be continued from time to time until completed, the said board of supervisors shall hear the evidence offered in support of the objections presented and shall add to or deduct from the valuation assessed to any tract or parcel of land such per centum thereof as shall be sufficient to raise it or reduce it to the full cash value of the benefit derived by said tract or parcel of land from the construction or maintenance or proposed construction and maintenance of irrigation works and shall fix the value of any lands contained in said district that shall not have been so assessed. Thereupon, and before said hearing is closed, the assessor shall have the total valuation of all the lands assessed extended into columns, added and a statement thereof made.

Tax rate fixed.

When said statement is completed, the board of supervisors must fix such ad valorem rate of taxation upon each hundred dollars in value of the lands so assessed as will raise the sum specified in said estimate. Any charges in or additions to said list shall be entered in said assessment-book in the proper place therefor and the order therefor shall be indorsed on the margin of the entry and signed by the president and attested by the secretary of said board of supervisors. The order of the board of supervisors approving the assessment, the statement of the assessor showing the total valuation of the property assessed, the order fixing the rate of taxation thereon, and the estimate of the sum required by the board of directors of the district for the expense thereof during the two years next following shall be signed by the president and attested by the secretary of the district and shall be attached to the assessment-book on the last volume thereof, unless the lands of the district are contained in more than one county, in which case a copy thereof shall be signed and attached in a similar manner to each separate part of the assessment-book.

Charge against each parcel of land computed.

Within ten days after the hearing is completed, the assessor shall compute and charge in the assessment-book in a place provided therefor in the record of each parcel or tract of land assessed the amount of the tax due thereon and shall file each said separate part of the assess-

ment-book with the county tax collector of the county in which the lands therein assessed are located and thereafter the charges therein taxed shall be due and payable to the county tax collector of the county in which the lands on which they are situated.

Appeal from decision of supervisors.

The various orders of the board of supervisors made at the hearing shall be final and when indorsed on or attached to the assessment-book shall be conclusive evidence that the assessment was made and the tax levied in accordance with the law; *provided, however*, that any person interested in lands of the district and aggrieved by the decision of the board of supervisors may, in order to have said assessment, or the tax levied thereon, corrected, modified or annulled, institute an action therefor in the superior court of the county in which said district was organized.

Time to commence action to determine validity of assessment. Objection, how to be made.

No action to determine the validity in any respect of any such assessment, or tax levied thereon, shall be maintained unless the same shall have been commenced within thirty days after the assessment-book, or each separate part thereof, is filed with said county tax collector as above provided, and no objection to the assessment shall be considered by said board of supervisors or allowed in any other action, or proceeding, unless such objection shall have been made in writing, verified and presented to the clerk of the board of supervisors in the manner herein required.

Assessment lien on property.

SEC. 9. From and after the filing of the assessment-book, or separate part thereof, with said county tax collector, as provided in section 8 of this act, the charges therein taxed upon any tract or parcel of land within the county for which he is the tax collector and any penalties added thereto as hereafter provided shall constitute a lien thereon and shall impart notice thereof to all persons.

Delinquency notice. Publication.

SEC. 10. Within ten days after each tax shall have become due and payable, the assessor shall publish in some newspaper of general circulation published in the county in which the district was organized, a notice stating that the same became due and payable on (inserting date) to the county tax collector of the county in which the lands on which the charge therefor is a lien are located and that unless paid within six calendar months from said date the same will become delinquent, an additional charge of ten per cent thereof added thereto and the delinquent property sold at public auction. The tax must be paid in United States gold coin and the tax collector must mark the date of payment in the assessment-book opposite the name of the person paying, and must give to such person a receipt, specifying the property taxed, the amount of the charge thereon and the amount paid, and thereafter

must pay the moneys so received to the county treasurer of said county, who must pay the same to the county treasurer of the county in which said district was organized, and he shall place the same to the credit of the district. As soon as possible after the tax shall become delinquent the assessment-book and each separate part thereof shall be returned to the secretary of the district and the board of directors thereof shall publish once a week for three weeks in some newspaper of general circulation published in the county in which said district was organized a notice containing a description of the delinquent property; the name, if known, and, if unknown, stating that fact, of the person to whom it is assessed; the amount of the taxes and penalties due thereon; and a statement that the delinquent property will be sold therefor in front of the courthouse of said county on a date therein stated, which must be not less than twenty-one or more than twenty-eight days from the first publication, unless an error is made in the publication and discovered prior to the sale, in which case the notice shall be republished in the same manner, specifying the sale for a date not less than twenty-one or more than twenty-eight days from the first republication.

Purchaser. Certificates of sale. Redemption of property. Deed after one year. Sale by district purchasing.

SEC. 11. At the time and place stated in said notice or at such other time (written notice whereof has been posted at the place of sale) to which the board of directors may have postponed it, not exceeding thirty days in all from the original date of sale, that person is the purchaser who will immediately pay in gold coin of the United States the delinquent tax and the penalty thereon for the smallest portion of the delinquent property, or in case an undivided interest is taxed, then the smallest portion of the interest. In case there is no purchaser in good faith for the same the whole amount of the delinquent property shall, for the amount of the tax and penalty thereon, be struck off to the district as the purchaser.

Certificate of sale.

A certificate of sale shall be executed in duplicate by the board of directors, one of which shall be delivered to the purchaser or to the district, if the property shall have been struck off to the district, and the other of which shall be recorded in the office of the county recorder of the county in which the property sold is located. The certificate shall be dated the day of the sale and shall specify—the description of the property sold; the name, if known, and if not, stating that fact, of the person to whom it was assessed; the fact that it was sold for the amount of the tax and penalty thereon, giving the amount and year of said tax; and the date on which the purchaser will be entitled to a deed.

Certificates recorded.

The recorder upon receiving the certificates of sale must, when he records the same, enter, in a book provided for that purpose and kept

with the book provided for the purpose of recording instruments and writings relating to the district, a description of the land sold, corresponding with the description in the certificate, the date of sale, the name of the purchaser, and the amount paid. The entries in said book shall be numbered consecutively on the margin thereof and a corresponding number shall be indorsed on the certificate. At the time of the sale the board of directors shall indorse in the assessment-book opposite the description of the property, the portion of the same sold for taxes and penalties, with the date of sale and name of purchaser and shall thereafter pay to the tax collector of the county in which the lands sold are located the amount received on the sale thereof and shall return said assessment-book, or any such separate part thereof, to the county tax collector from whom the same was received, who must keep and file the same for the use and benefit of the district.

Redemption of property sold.

Any person interested in any property sold may redeem the same within one year from the date of sale by paying in gold coin of the United States to the county tax collector of the county in which the property is located, and in trust for the purchaser or his assignees, the amount for which the same was sold, together with interest thereon at the rate of two per cent per month from the date of sale, and the tax collector must give him a receipt therefor, specifying therein a description of the property redeemed, the name of the purchaser and the date of sale, and he shall credit the amount so paid to the purchaser and shall thereafter pay the same on demand to the purchaser or his assignee. The county recorder of the county in which is located the property redeemed shall, upon presentation of the tax collector's receipt for said amount, mark the word "redeemed," the date and by whom redeemed on both the record of the certificate of sale of said property and on the margin of the memorandum thereof made in the book kept for that purpose.

Purchaser entitled to deed after one year.

If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by the board of directors, and said deed shall contain all the recitals of the certificate, and when duly acknowledged shall be (except as against actual fraud) conclusive evidence of the regularity of all proceedings from the assessment to the execution of said deed, inclusive, and said deed will convey to the grantee the absolute title to the lands described therein, free of all encumbrances, except state, county, municipal or subsequent district taxes, and except when the land is owned by the United States or this state, in which case it is the *prima facie* evidence of the right of possession.

All property sold for taxes to the district shall subsequently be assessed for district taxation as though it had never been sold, but it shall not again be sold for delinquent tax, as long as it is owned by the district.

Sale by district which became purchaser.

The title acquired by the district, in case it becomes the purchaser at a delinquent tax sale of the district, may, subject to the right of redemption herein provided, be sold at public auction or private sale, but such sale shall not be made for less than the reasonable market value of the property, or for less than the amount of the taxes levied thereon, plus any penalties that may have been added thereto.

Additional tax in case of failure or error.

SEC. 12. If for any reason any tract or parcel of land contained within the district shall not have been charged with its portion of any tax levied, or if the tax levied on any tract or parcel of land shall be adjudged invalid by any court of competent jurisdiction, then such tract or parcel of land shall at the hearing in any subsequent tax levy be additionally taxed and charged by the board of supervisors of the county in which said district was organized in a sum which bears the same proportion to the total amount of said former tax as its then assessed valuation bears to the total amount of the assessed valuation placed on all the lands in the district at the time said former tax was levied.

BONDS.**Plan of irrigation works. Special bond election. Notice. Ballots.**

SEC. 13. The board of directors shall, as soon after the organization of the district as is practicable, prepare and adopt a plan of irrigation works and shall estimate the cost of constructing the same and of acquiring the lands, property, property rights, water, and water rights necessary or proper therefor and to supply the lands contained in the district with sufficient water for irrigation purposes, together with every other expense of the district that it is probable will be incurred and become payable before the expiration of one year from the completion of said works, for which the funds of the district then in the treasury or thereafter to be received from a tax previously levied, are inadequate, including the interest on any bonds of the district due and payable prior to said date. Thereafter, when it is considered by the board of directors for the best interest of the district that bonds thereof shall be issued for the purpose of obtaining all of the money necessary to pay the costs and expenses specified in the estimate accompanying the plan of the irrigation works or when the holders of title, or evidence of title, including such aforesaid possessory rights, to a majority in area of the land contained in the district, shall sign and file with the secretary of the district a petition therefor, the said board of directors shall, by resolution adopted and entered in its minutes, order a special election to be held at the time designated by said board at which shall be submitted to the land owners the question of whether or not bonds of the district shall be issued in said amount. A notice of said election specifying the time and place at which the same will be held, the amount of the bonds proposed to be issued, the interest rate and purpose thereof, shall be published once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, and proof thereof must be filed with the secretary of the district prior to the date

on which said election is held. The ballots cast at such election shall specify the amount and purpose of the proposed bond issue and the rate of interest proposed. If two-thirds of the votes cast thereat are in favor of the issuance of bonds, the board of directors shall cause bonds in the amount specified in the order for the election to be executed and delivered to the county treasurer of the county in which said district was organized.

Term, denomination, etc., of bonds. Interest. Coupons. Form. Bonds placed to credit of district.

SEC. 14. Bonds of the district, when issued, shall be payable in gold coin of the United States in twenty series as follows, five per cent of the whole amount of said bonds at the expiration of eleven years and at the expiration of each succeeding year to and including the expiration of thirty years from the date of execution thereof; they shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; and they shall be signed by the president of the board of directors and attested by the county auditor of the county in which the district was organized. Each bond must be made payable at a given time for its entire amount and not for a percentage; shall bear interest at a rate not in excess of seven per cent per annum, payable semi-annually on the dates therein named at the office of said county treasurer upon the presentation and surrender of the proper coupons therefor, and the principal thereof shall be payable when due upon the presentation and surrender thereof to said county treasurer by the holder of the same. Each issue shall be numbered consecutively and the bonds of each issue shall be numbered consecutively and bear date at the time of their issue. Coupons for each installment of interest shall be attached to the bonds and shall be numbered the same as the bonds, and attested by the facsimile signature of the county auditor of the county in which said district was organized.

The bonds shall be substantially in the following form:

"Issue ----- No. ----- For value received ----- water district situated in the county of -----, State of California, promises to pay the holder hereof at the office of the treasurer of said county, on the ----- day of -----, 19--, the sum of ----- dollars in gold coin of the United States with interest in like gold coin at the rate of ----- per centum per annum, payable at the office of said treasurer semi-annually, on the ----- day of ----- and the ----- day of ----- in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued pursuant to an election held by said district on the ----- day of -----, 19--, authorizing its issuance, and by authority of an act entitled (specifying the title and date of approval of this act).

In witness whereof, the said district, by its board of directors, has caused this bond to be signed by the president of said board and attested by the auditor of said county, with his seal of office attached, this ----- of -----, 19--.

President of said board.

Attest:

Auditor of ----- County."

The interest coupons shall be substantially in the following form:

"No. _____.

The treasurer of _____ county, State of California, will pay the holder hereof, on the _____ day of _____, 19_____, at his office in _____, _____ dollars, gold coin of the United States, out of the funds of _____ Water District for interest on bond numbered _____ of said district.

Attest: _____

County Auditor."

The county treasurer of the county in which said district was organized shall, when he receives the same, place the said bonds to the credit of the district and he shall, in a book provided for that purpose, keep a record of said bonds and of the payment thereof and the interest thereon. When filed with said county treasurer, as above provided, the bonds of the district and the interest thereon shall be and remain until paid a lien on the lands of the district, and a lien for the bonds of any issue shall be a preferred lien to that of any subsequent issue.

Test of validity of bonds.

SEC. 15. As soon as said bonds shall have been delivered to said county treasurer, the board of directors, or any holder of title, or evidence of title, including such aforesaid possessory rights, to lands contained in the district, may, in order to determine that said bonds are a legal obligation of the district, institute a proceeding therefor in the superior court of the county in which the district was organized by filing with the clerk of said county a complaint setting forth that on a date therein named bonds of said district were delivered to the said treasurer, stating the amount of such bonds, and praying that such bonds be adjudged to be a valid legal obligation of such district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed with the court, any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of said bonds. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

Issue of additional bonds.

SEC. 16. For the purpose of completing the irrigation works and of acquiring the lands, property, property rights, water and water rights necessary or proper therefor and to supply the lands contained in the district with sufficient water for irrigation purposes, or for the purpose of making additions to said irrigation works, or for the purpose

of paying for and retiring any issue of bonds previously made, the district may, when it is necessary or proper therefor, issue additional bonds in the same manner as is hereinbefore provided for the original issue of bonds.

Sale of bonds.

SEC. 17. The board of directors shall provide ways and means for the sale of said bonds or for the exchange thereof dollar for dollar for bonds of the State of California. Said board shall in no event, except as herein otherwise provided, sell or exchange, as above provided, any of said bonds for less than the par value thereof, plus the accrued interest thereon, nor shall any of said bonds be sold or exchanged nor shall said treasurer deliver any of the same unless the total proceeds thereof, either in gold coin of the United States or bonds of the State of California at their par value, shall be at least eighty-five per centum of the total amount of said bond issue, nor unless said bonds shall first have been approved as provided in section eighteen of this act; *provided, however*, that the board of directors of a district shall have the power to order the bonds of the district to be sold at not less than ninety per cent of the par value thereof, when the board deems it for the best interest of the district to do so. When any of said bonds are sold by the board of directors, the county treasurer of the county in which the district was organized shall transfer the bonds purchased to the purchaser upon receiving the purchase price, and the moneys received therefrom shall be placed to the credit of the district and in a similar manner bonds of the State of California that may be received for bonds of the district shall be placed to the credit thereof to be sold as the board of directors may direct, in no case, however, for less than the par value thereof. (Amended Stats. 1921, p. 1142.)

Water district bonds lawful investment of trust funds, etc. Appointment of engineer. Board of investigation. Approval of superintendent of banks. Expense of investigation.

SEC. 18. When approved as provided in this section the bonds of any water district issued in pursuance of this act may be lawfully purchased or received in pledge as security for any money or deposits or for the performance of any act, by banks, banking institutions, insurance companies and trust companies, and, when thereunto duly authorized by the court, by guardians, executors, administrators and special administrators. When requested therefor in writing by a majority of the board of directors of any water district formed hereunder, the governor must select and appoint one hydraulic engineer, who, with one such engineer appointed by said board of directors and one such engineer mutually agreed upon and jointly appointed by the governor and said board of directors, shall constitute a board of investigation to determine whether or not the total cost of acquiring the water rights and the system of works that may be necessary to supply the lands of the district with water in sufficient quantities for irrigation purposes will be in excess of one hundred per centum of the total amount of the bonds theretofore issued by such district. Within ninety days after the third and last member thereof is chosen, unless said time shall be

extended by the board of directors, in which case within said extension of time, each member of said board of investigation shall prepare his separate written report and shall file the same with the state superintendent of banks and shall certify and file a copy thereof with the board of directors of said district, which report shall specify whether or not said cost will be in excess of one hundred per centum of the total amount of the said bonds so issued. If two members of said board of investigation shall find that said cost will not be in excess of an amount equal to one hundred per centum of the total amount of the said bonds so issued, the state superintendent of banks must, when so requested by the board of directors of said district, indorse upon the face of each of said bonds the word "approved" and shall affix thereunder his signature and the title of his office. The said district shall bear and pay for all expenses incident to the investigation and the governor, before appointing any member of the board of investigation which he is hereby empowered to select and appoint, may require that the said district provide, subject to his approval, a good and sufficient undertaking in an amount not in excess of six thousand dollars, conditioned that said district, or its sureties, which shall be two in number, will pay the salary and necessary expenses of that member of said board of investigation appointed by him, not to exceed, however, the total sum of five thousand dollars.

Destruction of unused bonds.

SEC. 19. Whenever there remains in the hands of the treasurer of the county in which the district was organized any unsold bonds of the district which it is not necessary to sell for the purpose of raising funds for the district, the board of directors may call a special election to determine whether said bonds shall be destroyed or not, or may submit such proposition at a general election. The notice thereof shall specify, in addition to the requirements therefor as provided in section 23 of this act, the amount of the bonded indebtedness authorized, the amount of the bonds remaining unsold and the amount thereof proposed to be destroyed. When the vote cast at said election is canvassed by the board of election, if a two-thirds majority of the votes cast shall be found to be in favor of the destruction of said bonds, then the president of the board of directors, in the presence of a majority of the members thereof, must destroy the bonds so voted to be destroyed and the amount thereof shall be deducted from the total amount authorized to be issued, and no part thereof shall thereafter be reprinted or reissued.

Use of excess money to redeem bonds.

SEC. 20. Whenever the funds of the district are in excess of the amount necessary to complete the construction of the irrigation works or to acquire the necessary water, water rights, property and rights in property therefor and to supply all the lands contained in the district with sufficient water for irrigation purposes and in addition thereto to pay every obligation of the district that is due and payable or that will become due and payable or that it is probable will become due and payable before the expiration of two years from the date on which the

next preceding tax of the district was levied, the board of directors may direct the treasurer of the county in which said district was organized to pay with said excess (specifying the amount thereof) such an amount of the sold bonds of the district as said excess sum of money will redeem at the lowest value at which they may be obtained for liquidation, in no case for more than the par value thereof.

County treasurer to receive funds for district. Bond fund. General fund. Payments from fund.

SEC. 21. The county treasurer of the county in which the district was organized shall receive to the credit of the district and in trust for the uses and benefits thereof all the funds thereof, and all such funds or moneys belonging to the district, or to which the district is entitled, shall, when received, except as herein otherwise provided, be paid by the person so receiving them to the said treasurer. The said treasurer shall establish for the district two funds, to wit, a bond fund and a general fund, and shall apportion the moneys of the district to said funds, as follows: to the bond fund, that portion of the moneys received from the collection of taxes or from the sale of property for delinquent taxes which bears the same proportion to the total amount so received from the collection of taxes or from the sale of property for delinquent taxes as that portion of the estimate of the board of directors (on which said tax was based) which is required for the payment of bonds and of the interest on bonds bears to the whole amount of said estimate; to the general fund, the balance of all moneys or funds so received. In case lands of the district when sold for delinquent taxes, are struck off to the district as the purchaser, the tax collector of the county in which said lands are located shall, in making his accounting with the treasurer of said county, furnish a statement of the lands so sold to the district and of the amount for which the same were sold, and said treasurer shall deliver the same to the treasurer of the county in which said district was organized and said last-named treasurer shall thereupon estimate that portion of said amount belonging to the bond fund and shall charge the general fund with said portion and shall pay the same from the general fund into the bond fund. The moneys placed in the bond fund shall be used for the payment of bonds and of the interest thereon, and, until the total bonded indebtedness of the district is discharged, shall not be used for any other purpose. The funds of the district shall not, except for the payment of bonds and the interest thereon, be paid out by the treasurer of the county in which said district was organized, unless a warrant therefor shall have been drawn and executed to the board of directors and approved by the board of supervisors of said county. Such warrants are and shall be considered as contracts in writing for the payment of money, and the period prescribed for the commencement of an action based thereon, or connected therewith, is and shall be the term of four years from the date of their issuance. In any proceeding for a writ of mandate to compel the board of directors to issue a warrant, the court must determine the controversy in the manner provided for determining controversies in other civil actions, and shall cause a writ to issue for such sum as may be found to be due.

ELECTIONS.

Voters.

SEC. 22. Except as herein otherwise provided, every holder of title or evidence of title (including the aforesaid possessory rights) to land contained in said district, and no other, shall be qualified and entitled to vote either in person or by proxy at any election held by said district. Each person entitled thereto shall have one vote for each dollar's worth of land, the title to which is held by him as above provided. The next preceding assessment-book of said district shall, for the purpose of this section, be conclusive evidence of ownership and of the value of the property so owned.

Conduct of elections. Election officers. Contest of election. Proxies.

SEC. 23. Except as herein otherwise provided, all elections held under the provisions of this act shall be called, held and conducted at the time, place and in the manner provided by the by-laws of the district; *provided, however*, that no such election shall be valid unless the place at which the same is held is at the principal place of business of the district and unless notice thereof shall first have been given in the following manner: by publication thereof once a week for at least two weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. The said notice of election shall state the time, place and purposes thereof. At least ten days before any election, the board of directors must appoint from among those persons qualified and entitled to vote at said election an inspector and two judges, who shall constitute a board of election, and three alternates who shall, in the order in which they are appointed, fill any vacancies on said board if any members thereof do not attend at the opening of the polls. Each member of such board of election, or his successor, must, before entering upon his duties as such, take an official oath as such member of the board of election, which may be administered by any officer authorized to administer oaths or by any landholder in the district. The inspector is chairman of the election board and shall appoint the necessary clerks, and if during the progress of the election any judge or clerk shall cease to act, he shall appoint his successor. The polls shall be kept open for the reception of votes from 10 o'clock a.m. until 5 o'clock p.m., when the same must be closed. The election board shall, before the opening of the polls, post in a conspicuous place thereat a list of all persons entitled to vote at said election with the number of votes they are entitled to cast. The ballots used at the election shall be provided by the board of directors and one of the clerks of election shall deliver one of them to each person qualified to cast a vote or to his representative by proxy. The Australian ballot shall be used and the clerk of the election board at the time of delivering the same to the voter, or his representative by proxy, shall mark thereon in a place provided for that purpose the name of the person casting the ballot and the number of votes which he is entitled to cast. The person casting the ballot shall stamp a cross with a rubber stamp, to be provided by the board of directors, in the square behind the name of each candidate or proposition he wishes to vote for. The election board shall retain and file

with the returns of the election all proxies presented at said election. A list of the ballots cast shall be made by the board of election, containing the name of the voter and, if the ballot be cast by proxy or by the legal representative of the voter, the name of the person casting it; the number of votes cast; and how the person voted on the different matters presented at the election. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall forward a certificate, showing the same and the number of votes cast for or against each candidate or proposition and shall forward said certificate, together with all ballots used and all documents and papers used at such election, to the clerk of the board of supervisors of the county in which the district was organized, and a duplicate copy thereof to the secretary of the district. A copy of said certificate, certified by said clerk of the board of supervisors, shall be by him filed for record with the county recorder of each county in which any of the lands contained in said district are located, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. Any person interested may contest such election, within twenty days after the result thereof has been declared, by filing a complaint in the superior court of the county where such election was held, and if no contest shall be commenced within said time, the declaration of the result by the board of election shall be final and conclusive. No proxy shall be valid and no proxy shall be accepted or vote allowed thereon at any election held under the provisions of this act unless the same be executed in writing by the person or corporation who, according to the next preceding assessment-book of the district, is entitled to the votes for which the proxy is given. The said proxy shall be acknowledged before some person authorized to take certified acknowledgments of conveyances of real property and shall specify the election for which it is given and shall only be used at such election. Every proxy shall be revocable at the pleasure of the person executing it.

Rights may be exercised by legal representative.

SEC. 24. The rights, privileges and immunities created by this act in favor of any holder of title or evidence of title, including such aforesaid possessory rights, to lands contained in the district may for his benefit and on his behalf be exercised by, and are hereby extended to, his legal representative in all cases where said legal representative is an official of said corporation owning land within the district or is a guardian, executor, or administrator of an estate who is appointed as such under the laws of this state and who as such is entitled to the possession of lands included within said water district belonging to the estate which he represents and who has been by the court duly authorized to exercise the particular right, privilege or immunity which he seeks to exercise; *provided, however*, that he must, before he casts a ballot at any election of the district, present the board of election or some clerk thereof with a certified copy of his authority, which must be kept and filed with the returns of the election.

CONSTRUCTION OF WORKS.

Use of water for district declared public use.

SEC. 25. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, and for domestic and other incidental and other beneficial uses, within such district, together with the rights of way for canals and ditches, sites for reservoirs and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the state in the manner prescribed by law.

Power to construct works across streets, etc. Right of way through state lands.

SEC. 26. The board of directors shall have power to construct the irrigation works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of a canal or canals of said works may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings and shall grant the privileges aforesaid; and if such railroad company and said board or the owners and controllers of said property, thing or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. A right of way is hereby given, dedicated, and set apart to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs and other property of like character belonging to any district organized under this act shall not be taxed for state and county or municipal purposes.

Condemnation proceedings.

SEC. 27. In case of condemnation proceedings, the board of directors shall proceed in the name of the district under the provisions of Title VII, Part III of the Code of Civil Procedure.

Officers not to be interested in contracts.

SEC. 28. No officer of the district shall in any manner be interested directly or indirectly, in any contract awarded or to be awarded, or in the profits to be derived therefrom; and for any violation of this provision such officer shall be deemed guilty of a misdemeanor and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

APPORTIONMENT OF WATER.

Apportionment of waters. Penalty.

SEC. 29. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole acreage assessed upon the district. When the equitable rules and regulations for the distribution of water have been provided by the board of directors and published once a week for two weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, any violation thereof shall be and is hereby declared to be a misdemeanor, and the person committing the same shall, upon conviction thereof, be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars.

No fees for services of county officers.

SEC. 30. No supervisor, recorder, tax collector, treasurer, auditor or clerk of any county shall receive any fee for any service required to be performed by him under the provisions of this act; *provided, however,* that the tax collector of each county in which any of the lands contained in the district are located, during the time for the collection of the taxes of the district, may require the board of directors to provide and pay for a deputy tax collector whose duty it shall be to care for the matters relating to the collection of the said taxes of the district.

In case of division of a county excluding lands of district.

SEC. 31. If at any time after the organization of any district hereunder, the boundaries of the county in which the same was organized shall be so changed or modified as to exclude therefrom all of the lands contained in said district, then in that event the records and documents of said district in the possession and care of the board of supervisors of said county, together with a certified copy of the proceedings had by the district under jurisdiction of said board of supervisors, shall be transferred and filed with the clerk of the board of supervisors of the county in which the greater portion of the lands contained in said district are located. All proceedings, petitions, orders or other documents which have been filed with the recorder of the county in which said district was organized, and which, or a certified copy thereof, have not been recorded in the county to which said district is transferred, shall be certified to by said county recorder and filed for record with the county recorder of the county to which said district has been transferred, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. The treasurer and the auditor of the county in which said district was organized shall draw their warrant upon said treasurer for all of the funds of such district in the treasury of said county and the said treasurer shall pay such warrant and said funds, together with all unsold bonds of the district and the bond record kept by him, shall be transferred by him to the treasurer of the county to which the district has been so transferred. From and after the transfer in the manner above specified the board of supervisors of the county to which the district

is transferred shall have and exercise all of the jurisdiction, power and authority over said district as was theretofore exercised by the board of supervisors of the county wherein such district was originally formed and thereafter any act or duty which is herein required to be done by the board of supervisors or any officer of the county in which said district was organized shall be performed by the corresponding board of supervisors or other official of the county to which said district has been transferred, in general the said district shall thereafter conduct and manage its affairs through its proper officials and in conjunction with the proper officials of each county in which any of the lands contained in said district are located as though said district was originally organized in the county to which it was transferred.

DISSOLUTION.

Action for dissolution of district. Hearing.

SEC. 32. An action may be brought by the attorney general in the name of the people of this state, upon his own information, or that of a private party, for the dissolution of any district formed hereunder for a nonuser of its corporate powers. In such action the complaint and summons shall be personally served upon said district by delivery of a copy thereof to either the president of the board of directors or the secretary of the district. When service has been made upon the defendant and an appearance has been entered or a default of the defendant entered, the court, upon the application of any of the parties, shall thereupon enter an order fixing a day for hearing, which shall, not be less than twenty-five days from the date of the order and shall, also, enter an order directing notice by publication to be given by the clerk to all persons interested in said district either as the owners of land or interests in land in said district or as creditors of said district, or otherwise, requiring them to be and appear on the day fixed for the hearing and show cause, if any they have, why the district named in the complaint as defendant should not be dissolved. The notice shall be published in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, for a period of not less than twenty days. On the day fixed for a hearing, or some later date to which the cause may be continued, the court may proceed with the hearing, due proof having been first made of the service of the notice by publication for the length of time required by the order. Any person interested in the district that is defendant, shall, upon showing his interest, be allowed to file an answer or objections to the dissolution of the defendant and shall from the filing of said answer or objections become a party defendant, and be entitled to all the rights of a defendant in any civil action. If upon the trial of any such action it be determined by the court: that the district is not in debt, or if in debt, that all claims are barred by the statute of limitations and that in addition thereto said district, or the board of directors thereof, are not proceeding to place the lands of the district under irrigation and are not exercising the powers of the corporation and have not been so doing for a period of one year prior thereto, the court shall then enter a decree dissolving the corporation,

or make such further order as may be deemed necessary to protect the rights of all parties interested.

GENERAL PROVISIONS.

Constitutionality of act.

SEC. 33. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each of said parts thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Nothing repealed.

SEC. 34. This act does not change, modify, add to or repeal any other act or law of this state.

County assessment-roll may be adopted.

SEC. 35. The board of directors of any district hereafter organized hereunder may at their option adopt the assessment-roll of the county or counties in which the land of the district is contained in so far as said assessment-roll affects the lands in the district; and file with the clerk of the board of supervisors a certified copy of such assessment-roll, in lieu of the assessment-book mentioned in section eight of this act. (New section added Stats. 1917, p. 1409.)

SALE OF WATER.

Sale of water.

SEC. 36. The board of directors of any district hereafter organized hereunder shall have the power to sell water to owners of land in the district and to fix rates for the sale of water, and such rates may vary in different months and in different localities of the district to correspond to the cost and value of the service, and to collect for all water sold and to use so much of the proceeds of the sale of water as may be necessary to defray the ordinary operating expenses of the district and any funds derived from the sale of water, in excess of the amount necessary for operating expenses, shall be paid to the treasurer of the county in which said district is located and applied upon the payment of interest on bonds or to create a sinking fund. (New section added Stats. 1917, p. 1409.)

6. THE WATER COMMISSION ACT.

An act to regulate the use of water which is subject to such control by the State of California, and in that behalf creating a state water commission; specifying and providing for the appointment of the members of said commission; fixing the terms of office and compensation of the members of said commission; fixing the powers, duties and authority of said commission and its members; providing for the filling of vacancies in the membership of said commission; providing for the removal from office of the appointed members of said commission; providing for the cooperation of courts with said commission; providing that certain courts shall take judicial notice of certain acts of the state water commission; specifying the duties of all persons summoned as witnesses before said commission or any of its members; appropriating money for carrying out the provisions of this act; providing for the payment of the indebtedness and expenses of said commission, its members and employees; declaring what water is unappropriated; providing for the utilization of water and the works necessary to such utilization to the full capacity of streams or of such portion or portions of such capacity as the public good may require; declaring what water may be appropriated; declaring that the nonapplication for ten consecutive years of any portion of the waters of any stream to lands riparian to such stream shall be conclusive presumption that the use of such nonapplied water is not needed on said riparian lands for a useful or beneficial purpose; declaring that such nonapplied water shall be deemed to be in the use of the state and subject to appropriation; declaring the duties of those who desire to appropriate water; declaring the periods for which water may be appropriated and the conditions under which water may be appropriated; providing for the payment of fees and charges by the applicants for permission to appropriate water and by the appropriators of water; providing for the ascertainment and adjudication of water rights; providing for the bringing of actions by certain persons, or, upon the direction of the state water commission, by the attorney general, for the quieting of title to water rights; specifying certain duties of the claimants, possessors or users of water or water rights; declaring water rights forfeited under certain conditions; regulating the appropriation of water; excepting cities, cities and counties, municipal water districts, irrigation districts and lighting districts from certain provisions of this act; defining certain words and terms used in this act; repealing all acts or parts of acts in conflict with this act; declaring how this act shall be known; making legislative declaration concerning those parts of this act which may not be declared unconstitutional.

(Approved by the Governor June 16, 1913, held up by referendum, approved by vote of the people November 3, 1914, went into effect December 19, 1914. Amended Stats. 1917, pp. 194, 195, 231, 284, 746; 1919, pp. 52, 124, 162; 1921, pp. 442, 443, 482, 543; 1923, pp. 511, 1193; and 1925, p. 586.)

The people of the State of California do enact as follows:

CREATION OF COMMISSION.

Commission personnel, etc.

SECTION 1. For the purpose of carrying out the provisions of this act a state water commission consisting of five persons is hereby created and established. Two members of said commission shall be, ex officio, the governor of the state and the state engineer, respectively. Three members of said commission, one of whom shall be the executive member and the other two shall be associate members, shall be appointed by the governor for the term of four years; *provided, however*, that the members first appointed shall be appointed to hold office for the unexpired term of the members in office at the time this amendatory act takes effect. Such appointive commissioners shall be men of practical knowledge or experience in the application and use of waters for irrigation, mining and municipal purposes, and shall be so appointed that at least one thereof shall have had practical knowledge and experience in the use of water for agricultural purposes, and one thereof shall have had practical knowledge and experience in the use of water for mining purposes, and one thereof shall have had practical knowledge and experience in the use of water for municipal purposes. The executive member shall be president of the commission. The executive member of said commission shall receive as compensation for his services the sum of five thousand dollars per annum. Each of the associate members of said commission shall receive as compensation for his services fifteen dollars per day while actually engaged in the duties of his office. All members of the commission shall receive their actual and necessary traveling expenses. No commissioner who is directly or indirectly interested in any matter before the commission shall sit with the commission during the hearing of such matter; nor shall he be detailed by the commission to investigate or report on any such matter; nor shall he take part in any determination of any such matter. But the governor shall have the power and authority, upon request of the commission, to appoint pro tempore some disinterested person to sit and act in the place and stead of such interested commissioner. Such pro tempore commissioner shall have compensation for the time of service equal to the compensation of a commissioner during such service and shall have the power and authority of the same, only in the matter for the investigation and determination of which he shall have been appointed and his connection with the commission shall cease and determine upon the completion of the investigation and determination for which he was appointed. But the commission in whose place and stead he sits shall have power, compensation and authority in all other cases.

Executive member—duties.

It shall be the duty of the executive member of said commission to consider and act upon all applications for permits to appropriate water

under the provisions of the water commission act and to do all things required or proper relating to such applications and his acts and orders in such matters shall be deemed the acts and orders of said commission; *provided, however,* that any person, firm, association, or corporation interested in any such application may appeal from any order of said executive member granting or refusing to grant a permit or a license to appropriate by filing with said commission a notice of appeal within thirty days after notice of such order is given as provided in the water commission act. Such notice of appeal shall be sufficient if it sets forth or refers to with reasonable certainty the order appealed from and the grounds of dissatisfaction therewith. Upon the filing of notice of appeal the said water commission shall review all papers and proceedings in the matter in which the order appealed from was made, take such additional evidence as it may deem proper, and enter its order in such matter affirming, reversing, or modifying in any way the order of said executive member. (Stats. 1919, p. 1193.)

Repeated by implication. See Pol. Code Sec. 3830 and Sections 1b and 19 of the Water Act.

POWERS AND DUTIES.

Hearings upon applications.

SEC. 1a. The state water commission shall have authority to grant, or to refuse to grant a permit and to reject any application, after hearing; *provided, however,* that no hearing shall be necessary in order to issue a permit upon an unprotested application or in order to reject a defective application after notice as provided in section seventeen of this act, unless the state water commission elects to hold a hearing; *and provided, further,* that upon failure of any party in interest to appear at a hearing or show good cause within five days thereafter for said failure, final action may be taken by said commission without further hearing. In the conduct of hearings technical rules of evidence need not be applied. Notice of hearing shall be given by mailing notice not less than twenty days before the date of hearing. (Stats. 1923, p. 161.)

Right to bring suit in superior court.

SEC. 1b. Any person, firm, association, or corporation interested in any application for a permit to appropriate water or any party protestant before the state water commission may within thirty days after issuance of a permit or an order refusing to issue a permit and rejecting an application bring an action in the superior court in and for the county wherein the proposed point of diversion or a proposed point of diversion lies. Said action shall be for a review of the order of the state water commission. Said court shall review all correspondence, maps, data and other records on file with the state water commission which pertain to said application and all evidence taken before said commission and take such additional evidence as it may require or as may be submitted by the parties in interest or the state water commission and shall then render judgment affirming, reversing, or modifying the action of the state water commission. The priority of right of an applicant shall continue until final judgment is rendered. (Stats. 1923, p. 162.)

No other method of appropriating water subject to act.

SEC. 1c. No right to appropriate or use water which is subject to the provisions of this act shall be initiated or acquired by any person, firm, association, or corporation except upon compliance with the provisions of this act. (Stats. 1923, p. 162.)

Some matters prerequisite to issuance of a permit.

SEC. 1d. As prerequisite to the issuance by the state water commission of a permit to appropriate water the following facts must exist: there must be a person, firm, association, or corporation as party applicant; the application must contain the matter and information prescribed by this act and be in the form required by the state water commission; the application must be accompanied by such maps, drawings, and other data as may be required by the state water commission; the intended use must be beneficial; there must be unappropriated water available to supply the applicant; and all fees due must be paid; but this enumeration of prerequisites shall not be interpreted to exclude other matters, if any, made by this act prerequisite to the issuance of a permit. (Stats. 1923, p. 163.)

Commission—vacancies and seal.

SEC. 2. Whenever a vacancy in the state water commission shall occur, the governor shall forthwith appoint a qualified person to fill the same for the unexpired term. The legislature, by a two-thirds vote of all members elected to each house, or the governor, may remove any one or more of the appointed commissioners from office. The commission shall have a seal bearing the following inscription: State water commission of California. The seal shall be affixed to all authentications of copies of records and to such other instruments as the commission may direct. All courts shall take judicial notice of said seal.

Commission—quorum.

SEC. 3. A majority of the appointed commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission.

Commissioners—powers.

The act of a majority of the commissioners present, when in session as a board, shall be deemed to be the act of the commission; but any investigations, inquiry or hearing which the commission has power to undertake or hold may be undertaken or held by or before any commissioners or commissioner designated for the purpose by the commission; and every finding, order, ascertainment or decision made by the commissioners or the commissioner so designated pursuant to such investigation, inquiry or hearing, when approved by the commission and ordered filed in its office, shall be and be deemed to be the finding, order, ascertainment or decision of the commission.

SEC. 4. (a) Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpœnas for the attend-

ance of witnesses and the production of papers, books, maps, accounts, documents and testimony in any inquiry, investigation, hearing, ascertainment or proceeding ordered or undertaken by the commission in any part of the state.

Witness fees, testimony, etc.

Each witness who shall appear by order of the commission or any commissioners or a commissioner shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases, which amount shall be paid by the party at whose request such witness is subpœnaed. When any witness who has not been required to attend at the request of any party shall be subpœnaed by the commission his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpœnaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear and one day's attendance. If such witness demands such fees at the time of service, and they are not at the time paid or tendered, he shall not be required to attend before the commission or commissioners as directed in the subpœna. All fees and mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. But no witness shall be compelled to attend as a witness before the water commission or any water commissioner or water commissioners out of the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of hearing.

(b) The superior court of the county or city and county in which any inquiry, investigation, hearing or proceedings may be held by the commission or any commissioner or commissioners shall have the power to compel the attendance of witnesses and the production of papers, maps, books, accounts, documents and testimony as required by any subpœna issued by the commission or any commissioner or commissioners. The commission, commissioners or commissioner before whom the testimony is to be given or produced may, in case of the refusal of any witness to attend or testify or produce any papers, maps, books, accounts or documents required by such subpœna, report to the superior court in and for the county or city and county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or for the production of said papers, maps, books, accounts or documents and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers, maps, books, accounts or documents required by the subpœna before the commission, commissioners, or commissioner in the cause or proceeding named in the notice and subpœna, or has refused to answer questions propounded to him in the course of such cause or proceeding, and ask an order of said court, compelling the witness to attend, testify, and produce said papers, maps, books, accounts or documents before the commission, or commissioners, or commissioner. The court, upon the petition of the commission or commissioners or commissioner, shall enter

an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause, if any he have, why he refused to obey said subpoena, or refused to answer questions propounded to him by said commission, or any commissioners or any commissioner, or neglected, failed or refused to produce before said commission, or any commissioners or any commissioner the books, papers, maps, accounts or documents called for in said subpoena. A copy of said order and the petition therefor shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or any commissioners or a commissioner, the court shall thereupon enter an order that said witness appear before the commission or commissioners or commissioner at the time and place fixed in said order, and testify or produce the required papers, maps, books, accounts or documents, or both testify and produce; and upon failure to obey said order said witness shall be dealt with as for contempt of court.

(c) The state water commission or any commissioners or commissioner, or any party to a proceeding before the commission or any commissioners or any commissioner, may in any investigation or hearing before the commission or any commissioners or any commissioner cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state.

(d) No person shall be excused from testifying or from producing any book, map, document, paper or account in any investigation or inquiry by or hearing before the commission or any commissioners or commissioner upon the ground that the testimony or evidence, book, map, document, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture. But no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing material to the matter under investigation by said commission, or any commissioners, or any commissioner concerning which he shall have been compelled to testify or to produce documentary evidence; *provided*, that no person so testifying or producing shall be exempt from prosecution and punishment for any perjury committed by him in his testimony.

Minutes and record of testimony.

SEC. 5. A full and accurate record of business or acts performed or of testimony taken by the commission or any member or members thereof in pursuance of the provisions of this act shall be kept and be placed on file in the office of said water commission.

Fees for copying and certification.

SEC. 6. The state water commission shall take, charge and collect the following fees: for copies and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for certified copies of evidence and proceedings before the commission, fifteen cents for each folio. The commission

may fix reasonable charges for publications issued under its authority. All fees charged and collected under this section shall be paid, at least once each week, accompanied by a detailed statement thereof, into the treasury of the state.

Rules and regulations of staff.

SEC. 7. For the purpose of carrying out the provisions of this act the state water commission is authorized to pass such necessary rules and regulations as it may from time to time deem advisable, to appoint and remove at its pleasure a secretary or chief clerk who shall have charge of its books and records, who shall have authority to certify under the seal of said commission all copies of orders, applications, permits, licenses, certificates or other records of said commission, who shall have authority to attest under the seal of said commission all records, transcripts, evidence, and other original documents which it is necessary to so authenticate, who shall perform such other duties as from time to time may be prescribed and whose salary shall be fixed by the water commission; and the state water commission may also employ such expert, technical and clerical assistance, and upon such terms, as it may deem proper, and may designate such of its employees as it may deem advisable to be examiners who shall have power to act as referees and to conduct hearings on behalf of said commission, to administer oaths, examine witnesses, issue subpoenas and receive evidence, under such rules and regulations as the commission may from time to time adopt. (Stats. 1925, p. 186.)

Appropriation 1913-15.

SEC. 8. For the purpose of carrying out the provisions of this act the sum of fifty thousand dollars is hereby appropriated for the fiscal years 1913-1914 and 1914-1915 out of any money in the state treasury not otherwise appropriated, and the state controller is hereby authorized and directed to draw warrants upon such sum from time to time upon the requisition of the state water commission approved by the state board of control, and the state treasurer is hereby authorized and directed to pay such warrants.

Expenditures.

SEC. 9. All indebtedness incurred for salaries, and all necessary costs in traveling and other expenses of said commission, and each of its members and persons employed by it, while actually engaged in the business of said commission, shall be paid by the state out of the funds hereby appropriated, upon the sworn statement of the person or persons incurring such indebtedness, and upon the requisition of the state water commission, approved by the state board of control, and the state controller is hereby authorized to draw warrants upon the state treasurer for said indebtedness, salaries, costs and expenses, as provided by law for the payment of similar costs and expenses and the drawing of similar warrants.

Stream system investigations.

SEC. 10. The state water commission is hereby authorized and empowered to investigate for the purpose of this act all streams, stream

systems, portions of stream systems, lakes, or other bodies of water, and to take testimony in regard to the rights to water or the use of water thereon or therein, and to ascertain whether or not such water, or any portion thereof, or the use of said water or any portion thereof, heretofore filed upon or attempted to be appropriated by any person, firm, association, or corporation, is appropriated under the laws of this state.

Investigate source and supervise distribution of water.

SEC. 10a. The state water commission is hereby authorized and empowered to conduct investigations of streams, stream systems, lakes or other bodies of water or any portions of any streams, stream systems, lakes, or other bodies of water; to investigate either or both surface and underground water conditions; to collect records of diversion and use of water; to supervise distribution of water in accordance with agreements therefor; and to do all or any of such work either independently or in cooperation with one or more persons, firms, associations, corporations or other agencies, including county, state, and federal agencies. (Stats. 1925, p. 586.)

APPLICATIONS, PERMITS AND LICENSES TO APPROPRIATE WATER.

Waters subject to appropriation.

SEC. 11. All water or the use of water which has never been appropriated, or which has been heretofore appropriated and which has not been in process, from the date of the initial act of appropriation, of being put, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, or which has not been put, or which has ceased to be put to some useful or beneficial purpose, or which may hereafter be appropriated and ceased to be put, to the useful or beneficial purpose for which it was appropriated, or which in the future may be appropriated and not be, in the process of being put, from the date of the initial act of appropriation, to the useful or beneficial purpose for which it was appropriated, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, is hereby declared to be unappropriated. And all waters flowing in any river, stream, canyon, ravine or other natural channel, excepting so far as such waters have been or are being applied to useful and beneficial purposes upon, or in so far as such waters are or may be reasonably needed for useful, and beneficial purposes upon lands riparian thereto, or otherwise appropriated, is and are hereby declared to be public waters of the State of California and subject to appropriation in accordance with the provisions of this act.

Ten years nonuse upon riparian lands conclusive presumption water not needed.

If any portion of the waters of any stream shall not be put to a useful or beneficial purpose to or upon lands riparian to such stream for any continuous period of ten consecutive years after the passage of this act, such nonapplication shall be deemed to be conclusive presumption that the use of such portions of the waters of such stream is not needed upon said riparian lands for any useful or beneficial pur-

pose; and such portion of the waters of any stream so nonapplied, unless otherwise appropriated for a useful and beneficial purpose is hereby declared to be in the use of the state and subject to appropriation in accordance with the provisions of this act; *provided, however*, that where there is pending any action or proceeding to condemn any lands riparian to any stream or any rights, powers or privileges to use the waters of any stream upon lands riparian to such stream or to condemn rights essential to use the waters of any stream which action or proceeding was commenced prior to the sixteenth day of June, 1913, said period of ten consecutive years shall be exclusive of the period of time during which such action or proceeding is pending; and *provided, further*, that where riparian lands were under lease on the thirteenth day of June, 1913, for a continuous term of one year or more thereafter, under the terms of which lease no right was reserved to the lessor sufficient to permit him to put the waters claimed to a useful or beneficial purpose as hereinbefore provided, or sufficient to enable him to secure the putting of the waters claimed to a useful or beneficial purpose as hereinbefore provided, said period of ten consecutive years shall be exclusive of the period of time during which such lease is operative.

Reservoir systems constituting single unit.

In any case where a reservoir or reservoirs have been or shall hereafter under the provisions of this act be constructed or surveyed, laid out and proposed to be constructed for the storage of water for a system, which water is to be used at one or more points under appropriations of water heretofore or hereafter made, which appropriations and rights thereunder are now, or shall hereafter be held and owned by the person or corporation owning such reservoir site or sites and constructing such reservoir or reservoirs, such reservoir or reservoirs and appropriations and rights shall, in the discretion of the state water commission, constitute a single enterprise and unit, and work of constructing such reservoir or reservoirs, or any of them, or work on any one of such appropriations shall, in the discretion of said commission, be sufficient to maintain and preserve all such applications for appropriations and rights thereunder. (Stats. 1919, p. 513; Stats. 1923, p. 126.)

Perfecting uncompleted appropriations made under old law.

SEC. 12. The state water commission shall have authority to, and may, for good cause shown, upon the application of any appropriator or user of water under an appropriation made and maintained according to law prior to the passage of this act, prescribe the time within which the full amount of the water appropriated shall be applied to a useful or beneficial purpose; *provided*, that said appropriator or user shall have proceeded, with due diligence in proportion to the magnitude of the project, to carry on the work necessary to put the water to a beneficial use; and in determining said time said commission shall grant a reasonable time after the construction of the works or canal or ditch or conduits or storage system used for the diversion, conveyance or storage of water; and in doing so said commission shall also take into consideration the cost of the application of such water to the useful or beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demand therefor, and the income or

use that may be required to provide fair and reasonable returns upon the investment and any other facts or matters pertinent to the inquiry. Upon prescribing such time the state water commission shall issue a certificate showing its determination of the matter. For good cause shown, the state water commission may extend the time by granting further certificates. And, for the time so prescribed or extended, the said appropriator or user shall be deemed to be putting said water to a beneficial use.

Joint occupancy and use of works may be permitted.

And if at any time it shall appear to the state water commission, after a hearing of the parties interested and an investigation, that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water or the use thereof made under the provisions of this act has not developed or can not develop the full capacity of the stream at the point where said works have been or are being built or constructed, and that the holder of the said appropriation will not or can not, within a period deemed to be reasonable by the commission, develop the said stream at said point to such a capacity as the commission deems to be required by the public good, then and in that case the said commission, in its discretion, may permit the joint occupancy and use, with the holder of the appropriation, to the extent necessary to develop the stream to its full capacity or to such portion of said capacity as may appear to the state water commission to be advisable, by any and all persons, firms, associations, or corporations applying therefor, of any dam, tunnel, diversion works, ditch, or other works or constructions already built or constructed or in process of being built or constructed under this act; *provided*, that said commission shall take into consideration the reasonable cost of the original and new work, the good faith of the applicant, the market for water or power to be supplied by the original and the new work, and the income or use that may be required to provide fair and reasonable returns upon such cost; *provided, further*, that the applicant or applicants shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions a pro rata portion of the total cost of the old and the new works, said pro rata portion to be based upon the proportion of the water used by the original and the subsequent users of said dam, tunnel, diversion works, ditch, or other works or constructions, if the water is used or to be used for irrigation or domestic purposes; or, if the water is used or to be used for the generation of electricity or electrical or other power, the said pro rata portion shall be based upon the relative amount of electricity or electrical or other power capable of being developed by the original and the new works; or, if a portion of the water utilized under a joint occupancy of any dam, tunnel, diversion works, ditch or other works or construction, shall be used for the purpose of irrigation and another portion of said water shall be used for the generation of electricity or electrical or other power, then and in that case the applicant or applicants for joint occupancy shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions a pro rata portion of the total cost of the old and new works, said pro rata portion to be based upon the proportion of the relative amount of

water used by each joint occupant and the income derived by each said joint occupant from said joint occupancy; or, if any of the waters used under such joint occupancy shall be utilized for purposes other than those specified above, then and in that case the applicant or applicants for such joint occupancy shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions, such a pro rata portion of the total cost of the old and new works as shall appear to the state water commission to be just and equitable. Said applicant or applicants shall also be required to pay a proper pro rata share, based as above, of the cost of maintaining said dam, tunnel, diversion works, ditch or other works or constructions, on and after beginning the occupancy and use thereof.

Enlargement by new applicant and joint occupancy permitted.

Furthermore, the state water commission if it appears to the said commission that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water or the use thereof under this act, will not develop the full capacity of the stream at that point, and it appears to the commission that the public good requires it, and the commission specifically so finds after investigation and hearing of the parties interested, may permit any person, firm, association or corporation to repair, improve, add to, supplement, or enlarge, at his or its proper cost, charge and expense, any dam, tunnel, diversion works, ditch, or other works or constructions already built or constructed or in process of being built or constructed under the provisions of this act, and to use the same jointly with the owners thereof; *provided*, that the said repairing, improving, adding to, supplementing, or enlarging shall not materially interfere with the proper use thereof by the owner of said dam, tunnel, diversion works, ditch, or other works or constructions or shall not materially injure said dam, tunnel, diversion works, ditch or other works or constructions. And the state water commission shall determine the pro rata and other costs provided for in this section.

Rights shall be determined as provided in act.

SEC. 13. All rights granted or declared by this act shall be ascertained, adjudicated and determined in the manner and by the tribunals as provided in this act.

No rights bestowed except as provided in act.

SEC. 14. This act shall not be held to bestow, except as expressly provided in this act, upon any person, firm, association or corporation any right where no such right existed prior to the time this act takes effect.

Declaration of policy regarding action on applications.

SEC. 15. The state water commission shall allow, under the provisions of this act, the appropriation for beneficial purposes of unappropriated water under such terms and conditions as in the judgment of the commission will best develop, conserve and utilize in the public interest the water sought to be appropriated. It is hereby declared to be the established policy of this state that the use of water for domestic purposes is the highest use of water and that the next highest use is for

irrigation. In acting upon applications to appropriate water the commission shall be guided by the above declaration of policy. The commission shall reject an application when in its judgment the proposed appropriation would not best conserve the public interest. (Stats. 1917, p. 194; Stats. 1921, p. 443.)

Appropriations on interstate streams.

SEC. 15a. The state water commission shall allow the appropriation of water in this state for beneficial use in another state only when, under the laws of the latter, water may be lawfully diverted therein for beneficial use in the State of California. Upon any stream flowing across the state boundary a right of appropriation having the point of diversion and the place of use in another state and recognized by the laws of that state, shall have the same force and effect as if the point of diversion and the place of use were in this state; *provided*, that the laws of that state give like force and effect to similar rights acquired in this state. (Stats. 1917, p. 284.)

Applications to appropriate water.

SEC. 16. Every application for a permit to appropriate water shall set forth the name and post-office address of the applicant, the source of water supply, the nature and amount of the proposed use, the location and description of the proposed headworks, ditch, canal and other works; the proposed place of diversion and the place where it is intended to use the water; the time within which it is proposed to begin construction, the time required for completion of the construction, and the time for the complete application of the water to the proposed use. If for agricultural purposes, the application shall, besides the above general requirements, give the legal subdivisions of the land and the acreage to be irrigated, as near as may be; if for power purposes, it shall give, besides the general requirements prescribed above, the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the use to which the power is to be applied; if for storage in a reservoir, it shall give, in addition to the general requirements prescribed above, the height of dam, the capacity of reservoir, and the use to be made of the impounded waters, except, that for storage underground these additional requirements as to height of dam and capacity of reservoir shall be given as near as may be; if for municipal water supply, it shall give, besides the general requirements specified above, the present population to be served, and, as near as may be, the future requirements of the city; if for mining purposes, it shall give, in addition to the general requirements prescribed above, the nature and location of the mines to be served and the methods of supplying and utilizing the water. All applications shall be accompanied by as many copies of such maps, drawings, and other data as may be prescribed or required by the state water commission, and such maps, drawings, and other data shall be considered as part of the application.

Notice of application.

As soon as practicable after the receipt of an application for a permit to appropriate water the state water commission shall issue a notice of the application which notice shall be in such form as it may prescribe

and shall specify the number of the application, the name and address of the applicant, the date of filing, the source of supply, the amount applied for, the diversion season named, the use to be made, the location of the point of diversion, the location of the place of use, the date of issuance thereof and such other information as the state water commission may deem necessary; said notice shall state that protests against the approval of said application may be filed within sixty days from the date of issuance of said notice or within such further time as the state water commission may, for good cause shown, allow; and said notice shall contain appropriate general information as to what protests against the approval of said application shall contain in order to accord with the requirements of law and the rules and regulations of the water commission. Upon receipt of notice of an application applicant shall forthwith cause same to be published as directed by the water commission: said notice shall be published at the expense of the applicant within fifteen days of the date of issuance of said notice and in a newspaper having a general circulation and published within the county where the point of diversion or a point of diversion lies but in case there is no newspaper published within the county then said publication of notice shall be made in a newspaper having a general circulation within said county; and publication of said notice shall be made at least once a week for three consecutive weeks and proof thereof shall be filed by the applicant within sixty days from the date of issuance of said notice and shall be by copy of the notice as published attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing same; *provided, however,* that notice of an application for three cubic feet per second or less or for two hundred acre feet of storage per annum or less shall be given by posting and mailing. Upon the date of issuance of notice of such an application the state water commission shall mail three copies thereof to the applicant by registered mail and shall also send a copy by registered mail to each party who may be known to said commission and in its judgment interested in said application because of ownership or location within the vicinity of said proposed appropriation. Applicant shall post notice within fifteen days of the date of issuance thereof in at least two conspicuous places in the locality to be affected by said proposed appropriation. Notices given by mailing and posting shall state that protests may be filed within forty days from date thereof or within such further time as the state water commission may, for good cause shown, allow. Proof of posting shall be by affidavit of the applicant or the party posting notice on behalf of applicant and shall be filed within forty days from date of issuance of notice.

Protests.

Any person, firm, association, or corporation interested may within the time allowed in the notice of application or within such further time as may, for good cause shown, be allowed by said water commission file with said commission a written protest against the approval of said application, which protest shall state the name and address of the protestant; shall be signed by the protestant, his agent or attorney; shall clearly set forth the protestant's objections to the approval of the application; and shall contain such other appropriate information and be in

such form as may be provided in the rules and regulations of said water commission.

Notice of hearing.

A notice of hearing upon a protested application shall be given by mailing notice not less than twenty days before the date of hearing and shall be mailed to both the applicant and protestant by registered mail and shall state the names of parties applicant and protestant, the time and place fixed for the hearing and such other appropriate information as may be deemed advisable by the state water commission.

Change of point of diversion or place of use.

At any time after notice of an application is given as above provided, if an applicant, permittee or licensee desires to change the point of diversion or place of use from the point of diversion or place of use specified in the application, permit or license, such change may be made only upon the permission of the state water commission; *provided*, that before granting such permission, such petitioner must establish, to the satisfaction of the state water commission, and such commission must so find that such change in the point of diversion, or place of use will not operate to the injury of any legal user of such waters before permitting such change in the point of diversion or place of use. After filing a petition for permission to make such a change, the petitioner, in case the commission so requires, shall cause notice thereof to be given or published in such manner as may be prescribed by the commission and if at any time prior to the granting of such permission a protest is filed with the state water commission against allowance of the proposed change in point of diversion, or place of use, the state water commission shall fix a time and place for the hearing of said petition and of the objections thereto, and upon such hearing the said commission shall grant or refuse, as the facts shall warrant, such permission to change the point of diversion or place of use. (Stats. 1921, p. 444; Stats. 1925, p. 586.)

PERMIT TO DIVERT WATER.

Permit. Priority right. Amended application.

SEC. 17. Any person, firm, association or corporation may apply for and secure from the state water commission, in conformity with this act and in conformity with reasonable rules and regulations adopted from time to time by the state water commission, a permit for any unappropriated water or for water which having been appropriated or used flows back into a stream, lake or other body of water within this state. And any application so made shall give to the applicant a priority of right as of the date of said application to such water or the use thereof until such application shall have been approved or rejected by said commission; *provided*, that such priority shall continue only so long as the provisions of law and the rules and regulations of the water commission shall be followed by the applicant. Upon the approval of any application by the commission, said approval shall give priority of right as of the date of said application and shall give the right to take and use the amount of water specified in said approval until the issuance by the state water commission of a license for the use of said amount of water, or until the said commission refuses to issue said license. But the approval of any application shall give the right to

take and use water only to the extent and for the purpose allowed in said approval; *provided*, that any defective application made in a bona fide attempt to conform to the rules and regulations of the state water commission and to the law shall secure to the applicant a priority of right as of the date of said application until he shall have been notified by said commission in what respect his application is defective. And said applicant shall be allowed sixty days after notice of such defect in which to file an amended and perfected application. If, within said sixty days, said applicant shall not file an amended and perfected application; said application shall be rejected and cancelled, unless for good cause shown the state water commission shall allow said applicant to file a further amended and perfected application; *provided, also*, that any priority of right secured under this section shall not be effective for more than thirty days after service of notice of such approval, personally or by registered mail, on the applicant, unless within said period of thirty days the fees due upon issuance of said approval or permit as provided in this act are paid to the state water commission, and unless said payment of fees shall have been made within said time the state water commission shall forthwith revoke said approval or permit and reject said application. (Stats. 1925, p. 586.)

Beginning of construction. Revocation of permit. Review of order.

SEC. 18. Actual construction work upon any project shall begin within such time after the date of the approval of the application as shall be specified in said approval, which time shall not be less than sixty days from date of said approval, and the construction of the work thereafter and the utilization of water for beneficial purposes shall be prosecuted with due diligence in accordance with this act, the terms of the approved application, and the rules and regulations of said commission; and said work shall be completed and the water applied to beneficial use in accordance with law, the rules and regulations of the state water commission, and the terms of the approved application and within a period specified in the permit; but the period specified in the permit for beginning construction work or the period specified in the permit for completion of construction work, or the period specified in the permit for application of the water to beneficial use or any or all of these periods may, for good cause shown, be extended by the state water commission.

Revocation of permit.

And if such work be not so commenced, prosecuted and completed, or the water applied to beneficial use as contemplated in the permit, the water commission shall, after notice in writing and mailed in a sealed, postage-prepaid and registered letter addressed to the applicant at the address given in his application for a permit to appropriate water, and a hearing before the commission, revoke its approval of the application. But any applicant, the approval of whose application shall have been thus revoked, shall have the right to bring an action in the superior court of the county in which is situated the point of proposed diversion of the water for a review of the order of the commission revoking said approval of the application. And thirty days after the revocation of said permit all rights of the said permittee under said permit shall cease and lapse, unless said permittee shall within said

thirty days after said revocation bring an action in the superior court for a review of the order of revocation. The priority of right of any permittee so bringing an action shall continue under said permit until a final judgment is rendered as to the reasonableness of the revocation of said permit. But until and unless the revocation of the permit shall be finally decreed by such court, the permittee shall not take or use any of the water the right to take and use which is granted by said permit. (Stats. 1925, p. 586.)

Report of completion of works. License to take water. License may be refused.

SEC. 19. Immediately upon completion, in accordance with law, the rules and regulations of the state water commission, and the terms of the permit, of the project under such application, the holder of a permit for the right to appropriate water shall report said completion to the state water commission. The said commission shall as soon as practicable thereafter cause to be made a full inspection and examination of the works constructed and the use of water therefrom, and shall determine whether the construction of said works and the use of water therefrom is in conformity with law, the terms of the approved application, the rules and regulations of the state water commission, and the permit. The said water commission shall, if said determination is favorable to the applicant, issue a license which shall give the right to the diversion of such an amount of water as has been found by inspection to have been applied to beneficial use. Said license shall be in such form and shall contain such terms as may be prescribed by the state water commission under the provisions of this act.

Revocation of license.

But if the said commission shall find, upon inspection and examination of the works constructed and the use of water therefrom, that the construction and condition of said works and the use of water therefrom are not in conformity with the law, the rules and regulations of the state water commission, the terms of the approved application and the terms of the permit, then and in that case the said commission may, after due notice in writing and in the manner provided in sections one thousand eleven, one thousand twelve, and one thousand thirteen of the Code of Civil Procedure to the applicant or the holder of the permit, and a public hearing thereon, refuse to issue said license. And thirty days after the refusal of said commission to issue said license all rights of the applicant and the holder of the permit under said application and permit shall lapse and cease. But the holder of any permit to whom the said water commission may have refused to issue said license, shall have the right to bring an action within thirty days after the said refusal, in the superior court to review said order and to obtain a decree requiring the issuance of such license. And the rights of the holder of any permit so bringing an action shall continue under said permit until the decree in such action has been entered and become final. But until the refusal of the commission to issue said license shall be finally determined by the courts, the permittee shall not take or use any of the water, the taking and using of which is granted to him by said permit. And if the holder of any permit which has been revoked by the state water commission shall not bring an action within said

thirty days in the superior court to determine the validity of said revocation, then and in that case all rights of the applicant and of the holder of said permit shall lapse and cease.

Filing of copy of license with county recorder.

In every case wherein a license for the appropriation of water shall have been issued by the state water commission prior to September 1, 1925, it shall be the duty of said commission to file a true copy of said license in the office of the county recorder of that certain county wherein the point of diversion specified in said license lies or in case there are points of diversion lying in more than one county then in each of those counties wherin a point of diversion lies and in case the place or places of use specified in said license are in different counties than the point or points of diversion then a true copy of said license shall also be filed by the state water commission in the county or counties wherein the place or places of use lie. Also, as to those licenses issued prior to September 1, 1925, it shall be the duty of the state water commission to file with the respective county recorders true copies of all orders allowing a change in point of diversion or place of use, revoking a license, or otherwise affecting a license which may have been entered by said commission prior to September 1, 1925.

As to licenses for the appropriation of water issued by the state water commission on or after September 1, 1925, a true copy of each license issued or of each order allowing a change in point of diversion or place of use or otherwise modifying or changing a license shall within thirty days after service of notice thereof upon the licensee, either personally or by registered mail, be filed by said licensee in the office of the recorder of that certain county wherein the point of diversion specified in said license lies or in case there are points of diversion lying in more than one county then in each of those counties wherin a point of diversion lies and in case the place or places of use specified in said license are in different counties than the point or points of diversion then a true copy of said license or order shall also be filed by said licensee in the county or counties wherein the place or places of use lie; *provided, however*, that whenever an order revoking a license in whole or in part shall have become final a true copy of said order revoking said license in whole or in part shall be filed promptly by the state water commission in the office or offices wherein a copy of the license affected is on file or in case the order of revocation shall have been modified by a court the order as finally decreed by the court shall be filed as herein provided. Whenever a copy is to be filed by the licensee, a certificate of such filing by the county recorder shall be filed with the state water commission by or on behalf of said licensee within fifteen days after said filing and if the filings herein provided for be not made by said licensee or on his behalf as directed all rights of appropriation under the license affected shall cease and determine and the state water commission shall forthwith enter its order revoking said license. (Stats. 1925, p. 586.)

Conditions and limitations of permits and licenses.

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits

and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that at any time after the expiration of twenty years after the granting of a license, the state or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings.

Revocation of permit or license for failing or ceasing to put water to beneficial use in accordance with terms thereof.

If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be *prima facie* correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns.

Value of rights limited to actual amount paid to state.

And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or

licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued or acquired under the provisions of this act.

Applications by municipalities for domestic use.

The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; *and providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and provided, further*, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings. (Stats. 1917, p. 746.)

Forfeiture of rights by three years non-use.

SEC. 20a. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water. (Stats. 1917, p. 746.)

Rights of state, etc., under eminent domain not limited by this act.

SEC. 21. Nothing herein contained shall be construed to deprive the state or any city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state, or any person, company or corporation of any rights which, under the law of this state they may have, to acquire property by or through eminent domain proceedings.

FEES.**State has right to enforce license fees.**

SEC. 22. Licenses hereafter granted for water or use of water shall be subject to the right of the state to impose the fees and charges provided in this act.

Fees on applications.

SEC. 23. Every person, firm, association or corporation making application for a permit to appropriate water or the use of water under this act shall pay to the state water commission at the time of filing said application a filing fee in the sum of five dollars.

Not later than five days after receipt of such an application the state water commission shall notify the applicant by registered mail of the further amount of fee, if any, due under the schedule of fees herein-after stated, and if there is a further amount due and said amount is not received within thirty days after the date of filing said application in the office of the state water commission said application shall be rejected.

The five dollar fee paid upon filing an application shall be a minimum fee but shall be a credit to the extent of five dollars whenever the fee due upon direct diversion or storage or both totals more than five dollars under the schedule hereinafter provided and in such case the further fee due shall be the total computed amount less five dollars.

After notice as above provided and within the time hereinabove provided, such further fee as may be due shall be paid in amount as follows:

For each cubic foot per second or fractional cubic foot per second of direct diversion from one cubic foot per second up to and including five hundred cubic feet per second, at the rate of one dollar per cubic foot per second.

For each cubic foot per second or fractional cubic foot per second of direct diversion from five hundred cubic feet per second up to and including two thousand cubic feet per second, at the rate of twenty-five cents per cubic foot per second.

For each cubic foot per second or fractional cubic foot per second of direct diversion over two thousand cubic feet per second, at the rate of ten cents per cubic foot per second.

For each acre-foot or fractional acre-foot of storage up to and including one hundred thousand acre-feet, at the rate of one-half cent per acre-foot.

For each acre-foot or fractional acre-foot of storage over one hundred thousand acre-feet, at the rate of one-tenth cent per acre-foot.

Also, all fees above provided for shall be paid as above provided upon all applications filed under section twelve of this act. (Stats. 1917, p. 195; Stats. 1921, p. 442; Stats. 1923, p. 52.)

Fees on permits.

Sec. 23a. In addition to fees paid upon applications every person, firm, association or corporation shall pay upon issuance of a permit, the additional fee, if the purpose or use is for the generation of electricity or electrical or other power, of ten cents for each theoretical horsepower capable of being developed by the works up to and including one hundred theoretical horsepower, of five cents for each horsepower in excess of one hundred theoretical horsepower up to and including one thousand theoretical horsepower, and of one cent for each theoretical horsepower in excess of one thousand theoretical horsepower; also, if for agricultural purposes, of five cents for each acre of land to be irrigated by means of said appropriation to and including one hundred acres, of three cents per acre for each acre in excess of one hundred acres up to and including one thousand acres and of two cents for each acre over one thousand acres; *provided*, that only one fee shall be paid upon issuance of two or more permits for the irrigation of the same land, whether said permits be issued simultaneously or otherwise; and that only one fee shall be paid upon issuance of two or more permits for water to be applied to the same power generating machinery or appliance whether said permits be issued simultaneously or otherwise, except, that whenever additional acreage may be irrigated or additional horsepower may be developed as a result of another permit issued or by amendment of a permit or by a supplemental permit, then a fee shall be paid for said increase in acreage or horsepower. (Stats 1923, p. 52.)

Disposition of fees and exemptions therefrom.

Sec. 23b. All fees paid under the provisions of sections twenty-three and twenty-three *a* of this act shall forthwith be paid into the state treasury by the state water commission. No fee shall be required from any person, firm, association, or corporation exempt by any law of the State of California from the payment of such fee. (Stats. 1923, p. 53.)

DETERMINATION OF WATER RIGHTS BY COMMISSION.

Commission may act as referee.

Sec. 24. In case suit is brought in the superior court for determination of rights to water or the use of water, the case may, in the discretion of the court, be transferred to the state water commission for investigation, as referee. (Stats. 1917, p. 231.)

Initiation of adjudication procedure for determination of rights by appropriation.

Sec. 25. Upon its own initiative or upon petition signed by one or more claimants to water or the use of water upon any stream, stream system, lake, or other body of water, all of which sources of supply are hereinafter referred to as "stream system," requesting the determination of rights, based upon prior appropriation, of the various claimants

to the water of that stream system, it shall be the duty of the state water commission, if, upon investigation, it finds the facts and conditions are such as to justify, to enter an order granting said petition and to make proper arrangements to proceed with such determination. (Stats. 1917, p. 231.)

INVESTIGATION OF FLOW OF STREAMS.

Notice of order.

SEC. 26. As soon as practicable after the state water commission shall make and enter the order granting the said petition or selecting the stream system upon which the determination of water rights by appropriation is to begin, it shall prepare a notice setting forth the fact of the entry of said order and of the pendency of the said proceedings, the date when the state water commission shall begin said examination, and that all claimants to rights by appropriation of the waters of said stream system are required, as in this act provided, to make proof of their claims. The notice shall be published for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. (Stats. 1917, p. 231.)

Investigation of stream system.

SEC. 27. At the time set in said notice, the state water commission shall begin an investigation of the flow of the stream system and of the conduits diverting water, and of the lands irrigated or irrigable therefrom, and shall gather such other data and information as may be essential to the proper determination of the water rights by appropriation. It shall reduce its observation, data, information and measurements to writing. It shall execute surveys and shall prepare maps from the observations of such surveys in accordance with such uniform rules and regulations as it may adopt; which surveys and maps shall show with substantial accuracy the course of the stream or streams; the location of each conduit diverting water therefrom, land irrigated and capable of being irrigated by each conduit, and the kind of culture upon the irrigated land. The maps shall be prepared as the surveys and observations progress, and, when completed, it [they] shall be filed and made of record in the office of the state water commission. (Stats. 1917, p. 232.)

Notice of date of filing proofs.

SEC. 28. Upon the completion of such measurements and maps, and the filing of said observations, data, information and measurements, the state water commission shall prepare a notice setting forth the date, prior to which the proofs, to be furnished by claimants upon forms supplied by the state water commission and more specifically referred to in the next section hereof, as to the rights by appropriation of the waters of said stream system, shall be filed; *provided, however*, that the date set, prior to which said proofs must be filed, shall not be less than sixty days from the date of the last publication of said notice as herein-after provided. The notice shall be deemed to be an order of the state water commission as to its contents, and it shall be published by the

state water commission for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. At or near the time of the first publication of said notice it shall be the duty of the state water commission to send by registered mail to each claimant to rights by appropriation of the waters of said stream system, in so far as such claimant can be reasonably ascertained at his last known place of address, a notice equivalent in terms to the said published notice. (Stats. 1917, p. 232.)

Forms of proof of appropriation.

SEC. 29. The state water commission shall, in addition, enclose with the notice to be mailed as aforesaid, blank forms, proofs of appropriation, upon which said claimant shall present in writing all particulars necessary for the determination of his right by appropriation of the waters of said stream system, the said statement to include the following:

- (a) The name and post-office address of the claimant.
- (b) The nature of the right or use on which the claim for appropriation is based.
- (c) The date of the initiation of such right and a description of works of diversion and distribution.
- (d) The date of beginning of construction.
- (e) The date when completed.
- (f) The dates of beginning and completion of enlargements.
- (g) The dimensions of the ditch as originally constructed and enlarged.
- (h) The date when water was first used for irrigation or other beneficial purposes, and if used for irrigation, the amount of land irrigated the first year, the amount in subsequent years, with the dates of irrigation and the area and the location of the lands which are intended to be irrigated.
- (i) The character of the soil and the kind of crops cultivated, and such other facts as will show the extent and nature of the right and a compliance with the law in acquiring the same, as may be required by the state water commission. Each claimant shall be required to certify to his statements, under oath. (Stats. 1917, p. 232.)

CONTESTS CONCERNING WATER RIGHTS.

Delay or failure in filing proofs.

SEC. 30. After the date fixed for the filing of proofs, no proofs shall be received or filed with the state water commission; *provided, however*, that the state water commission may, for cause shown, in its discretion, extend the time in which proofs may be filed. Upon neglect or refusal of any person to make proof of his claim to rights by appropriation of the waters of such stream system, as required by this act, prior to the expiration of the period fixed by the state water commission, during which proofs may be filed, the state water commission, shall determine the right by appropriation of such person on such evidence as it may obtain or may have on file in its office in the way of maps, plats, surveys and transcripts; and exceptions to such determination may be filed in court as hereinafter provided. (Stats. 1917, p. 233.)

Intervention of claimant without knowledge or notice.

SEC. 31. Any claimant of a right by appropriation of the water of any stream system upon whom no service of notice shall have been had of the pendency of proceedings for the determination of the rights by appropriation of the waters of said stream system, and who shall have had no actual knowledge or notice of the pendency of said proceedings, may at any time prior to the expiration of three months after the entry of the determination of the state water commission, as provided in section thirteen of this act, file a petition to intervene in said proceedings. Such petition shall be under oath and shall contain, among other things, all matters required by this act of claimants who have been duly served with notice of said proceedings, and also a statement that the intervenor had no actual knowledge or notice of the pendency of said proceedings. Upon the filing of said petition in intervention, the petitioner shall be allowed to intervene and thereafter shall have all the rights and be subject to all the duties of the claimants who have been duly served. (Stats. 1917, p. 233.)

Fees for adjudication.

SEC. 32. At the time of submission of proof of appropriation, the state water commission shall collect from such claimants, on the basis of the statements in the proofs, a fee of five (5) dollars for each cubic foot per second claimed for any purpose; the minimum fee, however, for any claimant to be five (5) dollars. For all purposes of this section three hundred fifty acre-feet of water claimed for storage shall be deemed the equivalent of one cubic foot per second. As soon as practicable after the expiration of the period fixed in which proofs may be filed, the state water commission shall compute the cost of surveys, maps, reports and gathering of data and should the aggregate cost thereof exceed the total amount received from claimants with their submission of proofs, the excess shall be apportioned among the claimants in proportion to water claimed by them. Notice of the assessment of said additional charges shall be sent by registered mail to each claimant, such notice to include a statement of the total sum assessed and of the sum assessed to claimant addressed. All assessments remaining unpaid sixty days after the mailing of said notice shall bear interest at the rate of seven per cent per annum from the end of said sixty day period, and all assessments remaining unpaid at the time of entry of decree as provided in section thirty-six c of this act shall be taxed as costs against the delinquent claimants and collected in the manner provided by law for the collection of judgments. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, into the cash revolving fund of the state water commission in the state treasury. (Stats. 1917, p. 234; Stats. 1921, p. 482.)

Abstract of inspection of proofs.

SEC. 33. As soon as practicable after the expiration of the period fixed in which proofs may be filed, the state water commission shall

assemble all proofs which have been filed, and prepare and certify an abstract of all of the said proofs, which shall be printed in the state printing office. As soon as practicable the state water commission shall prepare a notice fixing and setting a time and place, reasonably convenient to the claimants, when and where the evidence taken by or filed with it shall be open to the inspection of all interested persons, said period of inspection to be not less than ten (10) days, which notice shall be deemed to be an order of the state water commission as to the matters contained therein. A copy of said notice, together with a printed copy of the said abstract of proofs, shall be sent by registered mail, at least fifteen (15) days prior to the first day of such period of inspection, to each claimant who has appeared and filed proof as herein provided. A representative of the state water commission shall be present at the time and place designated in said notice, and allow, during said period, any person interested to inspect such evidence and proofs as have been filed in accordance with this act. (Stats. 1917, p. 234.)

Contest of proofs.

SEC. 34. Should any claimant desire to contest any of the statements and proofs of claims filed with the state water commission by any other claimant to the waters of the stream system, he shall, within fifteen (15) days after said evidence and proofs shall have been opened to public inspection, or within such further time as for good cause shown may be allowed by the state water commission upon application made prior to the expiration of said fifteen (15) days, in writing, notify the state water commission, stating with reasonable certainty the grounds of the proposed contest, which statement shall be verified by the affidavit of the contestant, his agent or attorney. The statements or proofs of the person whose rights are contested and the verified statement of the contestant shall be deemed sufficient to constitute a proper cause for such contest. (Stats. 1917, p. 234.)

Hearings of contests.

SEC. 35. Within ten (10) days after the receipt of the notice of contest the state water commission shall notify by registered mail the contestant and the claimant whose rights are contested to appear before it at a time and place specified in said notice, and that at said time and place said contest will be heard; *provided*, that said time shall not be less than fifteen (15) days nor more than sixty (60) days from the date of the mailing of the notice of the commission. The state water commission shall have power to adjourn hearings of contests from time to time upon reasonable notice to all parties in interest, and to issue subpoenas for and compel the attendance of witnesses to testify before it and to produce papers, books, maps, and other documents. The costs of taking testimony at a hearing shall be borne by the parties thereto as follows: each party shall pay for the direct examination of his own witness and the cross-examination of opponent's witness and shall share equally for that part of the examination directed by the representative of the commission. One copy of the transcript of testimony taken at the hearing shall be furnished to the commission and the cost thereof borne equally by the parties. (Stats. 1917, p. 235.)

Order of determination.

SEC. 36. As soon as practicable after the hearing of contests, it shall be the duty of the state water commission to make, and cause to be entered of record in its office, an order determining and establishing the several rights by appropriation of the waters of said stream; *provided, however*, that within sixty (60) days after the entry of an order establishing water rights, the state water commission may, for good cause shown, reopen the proceedings and grant a rehearing. Such order and determination shall be prepared, and after certification by the state water commission, printed in the state printing office. A copy of said order of determination shall be sent by registered mail to each person who has filed proof of claim, and to each person who has become interested through intervention or as a contestant under the provisions of section eight or section eleven of this act. (Stats. 1917, p. 235.)

Filing of order of determination and testimony with superior court and notice of order of hearing.

SEC. 36a. As soon as practicable, after the entry of the order of determination, a certified copy thereof, together with the original evidence and transcript of testimony filed with, or taken before the state water commission, as aforesaid, duly certified by it, shall be filed with the clerk of the superior court of the county in which said stream system, or any part thereof, is situated. Upon the filing of the certified copy of said order, evidence, and transcript with the clerk of the court in which the proceedings are to be had, the state water commission shall procure an order from said court setting a time for hearing. The clerk of such court shall immediately furnish the state water commission with a certified copy of said order. It shall be the duty of the state water commission immediately thereupon to mail a copy of such certified order of the court, by registered mail, addressed to each known party in interest at his last known place of residence, and to cause the same to be published at least once a week for four consecutive weeks in some newspaper of general circulation published in each county in which such stream system or any part thereof is located, and the state water commission shall file with the clerk of the court proof of such service by registered mail and by publication. Such service by registered mail and by publication shall be deemed full and sufficient notice to all parties in interest of the date and purpose of such hearing. (Stats. 1917, p. 236.)

Court hearing and decree.

SEC. 36b. At least ten days prior to the day set for hearing, all parties in interest who are aggrieved or dissatisfied with the order of determination of the state water commission shall file with the clerk of said court notice of exceptions to the order of determination of the state water commission, which notice shall state briefly the exceptions taken, the reasons therefor, and the prayer for relief, and a copy thereof shall be transmitted by registered mail at least ten (10) days prior to such hearing, to the state water commission and to each claimant, who was an adverse party to any contest wherein such exceptor was a party in the proceedings. The order of determination by the state water com-

mission and the statements or claims of claimants and exceptions made to the order of determination shall constitute the pleadings but the court may allow such additional or amended pleadings as may be necessary to a final determination of the proceeding. If no exceptions shall have been filed with the clerk of the court as aforesaid, then on the day set for the hearing, on motion of the state water commission, or its attorney, the court shall enter a decree affirming said order of determination. On the day set for hearing all parties in interest who have filed notices of exceptions as aforesaid shall appear in person, or by counsel, and it shall be the duty of the court to hear the same or set the time for hearing, until such exceptions are disposed of, and all proceedings thereunder shall be as nearly as may be in accordance with the rules governing civil actions. Whenever in the judgment of the court the state is a necessary party to the action, the court shall make an order to that effect and thereupon a copy of all pleadings and proceedings on file with the court in said matter shall be served upon the attorney general who shall represent the state therein. (Stats. 1917, p. 236.)

Decree determining the right of persons involved. Appeals.

SEC. 36c. For further information on any subject in controversy, the court may employ one or more qualified persons to investigate and report thereon under oath, subject to examination by any party in interest as to his competency to give expert testimony thereon. The court may take additional evidence on any issue and may, if necessary, refer the case for such further evidence to be taken by the state water commission as it may direct, and may require a further determination by it. After the hearing, the court shall enter a decree determining the right of all persons involved in such proceeding. Said decree shall in every case declare as to the water right by appropriation adjudged to each party, the extent, priority, amount, purpose of use, point of diversion, and place of use of said water; and as to water used for irrigation, such decree shall also declare the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority. Upon the hearing the court may assess and adjudge against any party such costs as it may deem just. Appeals from such decree may be taken to the supreme court by the state water commission or any party in interest, in the same manner and with the same effect as in civil cases. (Stats. 1917, p. 236.)

Recording of decree and issuing of certificates.

SEC. 36d. A certified copy of the decree of the superior court shall be prepared by the clerk thereof, without charge, and filed for record in the office of the county recorder of each county in which any part of the stream system is situated and also in the office of the state water commission. It shall be the duty of the state water commission to issue to each claimant represented in such determination a certificate to be signed by the president of the state water commission, and attested under seal of the secretary of said commission, setting forth the name and post-office address of the owner of the right; the priority of the date, extent and purpose of such right; and, if such water be for irrigation purposes, a description of the legal subdivisions of land to which said water is appurtenant. (Stats. 1917, p. 236.)

Failure to file claim estops from subsequent assertion of right. Decree conclusive as to rights by appropriation.

SEC. 36e. Whenever proceedings shall be instituted for the determination of rights by appropriation of water, it shall be the duty of all claimants interested therein and having notice thereof as in this act provided, to appear and submit proof of their respective claims at the time and in the manner required by law; and any such claimant who shall fail to appear in such proceedings and submit proof of his claim shall be barred and estopped from subsequently asserting any rights theretofore acquired upon, the stream system, embraced in such proceedings, and shall be held to have forfeited all rights by appropriation to said water theretofore claimed by him on such stream system, unless entitled to relief under the laws of this state; *provided*, that such proceedings shall result in a determination by the state water commission and a decree by the superior court determining the rights on such stream. Such decree shall be conclusive as to the rights by appropriation of all existing claimants upon the stream system lawfully embraced in the determination. (Stats. 1917, p. 236.)

Fixing time for completion of appropriations initiated prior to December 19, 1914, and issuing certificates thereon.

SEC. 36f. The state water commission shall have authority and power in making a determination as to the rights by appropriation of the waters of any stream system, to fix a time limit for the completion of all appropriations of water from such stream, where such rights of appropriations were initiated prior to December 19, 1914, and since prosecuted with reasonable diligence, and such appropriators having been duly notified as provided in this act, must appear and submit their proofs of claim, in accordance with section twenty-eight of this act, or they shall be deemed and held to be in default, and to have abandoned or to have no right, title or interest in or to the waters of such stream. In determining rights of such appropriators, the state water commission shall prescribe such a reasonable time for the completion of such appropriations, and the application of the water appropriated to a beneficial use, as will enable such appropriators acting in good faith and with due diligence to complete the same. The findings of the state water commission shall provide for the submission of proof or evidence as to the completion of such appropriation and the amount of water actually applied to beneficial use upon the expiration of such time limit, and shall, in accordance with such proof, enter supplemental findings, establishing and determining such rights of appropriation, in so far as the same shall have been completed; and certificates of water right shall be issued in accordance with such supplemental findings and order of determination of said commission; but this section shall not be construed to confer any rights of appropriation upon parties who shall have abandoned their said appropriations or failed to use due diligence in the application of the water to a beneficial use and in the completion of their appropriations; and all such appropriators, who shall fail to complete their said appropriations within the limit of time fixed by the state water commission in said findings, or such further time granted upon application made prior to the expiration of such time limit, as the state water commission shall find equitable and just, shall be deemed to have

abandoned their rights of appropriation, and rights acquired by virtue thereof waived, and such appropriators shall be deemed and held to have no right, title or interest in or to the waters of such stream by virtue of their said appropriations. The findings and determination of the state water commission made under the provisions of this section may be reviewed in the manner prescribed by section thirty-six *b* of this act. (Stats. 1917, p. 236.).

SUPERVISION OF DISTRIBUTION OF WATER.

Division of state into water districts.

SEC. 37. The state water commission shall divide the state into water districts to be so constituted and adjusted as to insure the most practical and economical supervision of the distribution of water on the part of the state, and shall have authority to make such reasonable regulations to secure distribution of water in accordance with the determined rights as may be needed. Said water districts shall be created from time to time as the claims to water shall be determined by adjudication of court either under the procedure provided for in the water commission act, or otherwise, and thereafter changed from time to time as convenience of administration may require. (Stats. 1921, p. 543.)

Appointment, duties and powers of water masters.

SEC. 37a. Upon written request of the owners or governing bodies of at least fifteen per cent of the conduits, ditches, pipe lines and other means of diversion lawfully entitled to directly divert water from the streams or other sources of water supply in any water district, the state water commission may, if in its discretion necessity therefor exists, appoint one or more water masters for such water district. The state water commission may from time to time discontinue water master service in any water district, if necessity therefor ceases, and revive the same whenever and as frequently as necessity exists. The water master shall be properly qualified and shall perform the duties imposed on him by this act as an employee under the general supervision and control of the state water commission. It shall be the duty of the water master to divide the waters of the streams, or other sources of supply, among the several conduits, ditches, pipe lines and other means of diversion (all of which are hereafter referred to as conduits) and reservoirs taking water therefrom, and so to adjust or close the headgates of conduits and regulate the controlling works of reservoirs, as may be necessary to insure a distribution of the water thereof among the water users entitled to its use, according to the rights of such water users as determined by court adjudication either under the procedure provided for in the water commission act or otherwise and permits and licenses issued by the state water commission after such adjudication; *provided*, that any person who may be injured by the action of any water master, shall have the right to appeal to the superior court of the county in which the injury takes place, for an injunction; such injunction to be issued only in case it can be shown at the hearing that the water master has failed to carry into effect decrees of the court or permits or licenses of the state water commission as in this section provided. Whenever, in the pursuance of his duties, the water master regulates a headgate to a conduit or the controlling works of reservoirs, it shall be his duty to attach to

such headgate or controlling works a written notice properly dated and signed setting forth the fact that such headgate or controlling works has been properly regulated and is wholly under his control, and such notice shall be a legal notice to all parties interested in the diversion and distribution of the water of such conduit or reservoir. (Stats. 1921, p. 544.)

Interference with headgate regulations of water masters a misdemeanor.

SEC. 37b. Any person who shall wilfully and without authority open, close, change or interfere with any headgate, water box or measuring device while under the control of the water master, or who shall wilfully take or use water which has been denied him by the water master under the provisions of this act, shall be deemed guilty of a misdemeanor. The possession or use of water when the same shall have been so denied him by the water master shall be *prima facie* evidence of the guilt of the person using it. (Stats. 1921, p. 544.)

Installation and maintenance of headgate and measuring devices.

SEC. 37c. The owner of any conduit subject to regulation by a water master as provided by section thirty-seven *a* of this act shall construct and maintain to the satisfaction of the state water commission a substantial and serviceable headgate or diversion works, at or near the point where the water is diverted, which shall be of such construction that it can be locked and kept closed by the water masters and such owners shall construct and maintain, when required by the state water commission, suitable measuring devices at such points along such ditch as may be necessary for the purpose of assisting the water master in determining the amount of water that is to be diverted into said conduit from the stream. Any and every owner or manager of a reservoir located across or upon the bed of a natural stream or of a reservoir which requires the use of a natural stream channel, subject to regulation by a water master as provided by section thirty-seven *a* of this act shall construct and maintain, when required by the state water commission, a measuring device of a plan to be approved by the state water commission, below such reservoir, and a measuring device above such reservoir on each or every stream or source of supply discharging into such reservoir for the purpose of assisting the state water commission or water master in determining the amount of water to which appropriators are entitled and thereafter diverting it for such appropriator's use. If any such owner or owners of water works shall refuse or neglect to construct and put in such headgate or measuring devices after thirty days notice, the water master may close such ditch, and the same shall not be opened or any water diverted from the source of supply, under the penalties prescribed by law for the opening of headgates lawfully closed until the requirements of the state water commission as to such headgates or measuring device have been complied with, and if any owner or manager of a reservoir located across the bed of a natural stream, or of a reservoir which requires the use of a natural stream channel, shall neglect or refuse to put in such measuring devices after thirty days notice by the state water commission, the water master may open the sluice gate or outlet of such reservoir and the same shall not be closed, except by order of the state water commission, under the penalties of

the law for changing or interfering with headgates, until the requirements of the state water commission as to such measuring devices are complied with. (Stats. 1921, p. 545.)

Water master has power to arrest.

SEC. 37d. The water master shall have the power to arrest any person violating any of the provisions of sections thirty-seven *b*, and thirty-seven *c* of this act, and to give him into the custody of the sheriff, or other competent police officer within the county, and immediately thereafter make complaint before a magistrate against the person so arrested. (Stats. 1921, p. 545.)

Violation of provisions Secs. 37b and 37c misdemeanors. Penalties.

SEC. 37e. Any person violating any of the provisions of section thirty-seven *b* and thirty-seven *c* of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than twenty-five dollars, nor more than two hundred fifty dollars, or imprisoned in the county jail not less than ten days nor more than six months, or by both such fine and imprisonment. (Stats. 1921, p. 546.)

GENERAL PROVISIONS.

Diversion or use of water contrary to the act a trespass.

SEC. 38. The diversion or use of water subject to the provisions of this act other than as it is in this act authorized is hereby declared to be a trespass, and the state water commission is hereby authorized to institute in the superior court in and for any county wherein such diversion or use is attempted appropriate action to have such trespass enjoined.

Water appropriated for specific purpose.

SEC. 39. Water or the use of water which shall hereafter be, or which has heretofore been, appropriated under the provisions of this act for one specific purpose, shall not be deemed to be appropriated or acquired for any other or different purpose. Any person, firm, association or corporation applying to the state water commission for a permit to appropriate water or the use of water shall state in the application for said permit the specific purpose to which it is proposed to put such water or the use thereof. Any applicant, permittee, or licensee desiring to change purpose of use of water heretofore or hereafter appropriated under the provisions of this act shall proceed as provided in section sixteen of this act in the matter of petitions to change points of diversion or places of use and changes in purpose of use shall be subject to the provisions of law provided in section sixteen of this act relative to changes in points of diversion and places of use. (Stats. 1925, p. 586.)

Investigation of storage and flood control projects.

SEC. 40. The state water commission is also authorized and empowered to investigate any natural situation available for reservoirs or reservoir systems for gathering and distributing flood or other waters not under beneficial use in any stream, stream system or lake or other

body of water, and to ascertain the feasibility of such projects, including the supply of water that may thereby be made available, the extent and character of the areas that may be thereby irrigated, and make estimate of the cost of such project.

Rights of municipalities not impaired by the act.

SEC. 41. Nothing in this act shall be construed as depriving any city, city and county, municipal water district, irrigation district or lighting district of the benefit of any law heretofore or hereafter passed for their benefit in regard to the appropriation or acquisition of water or the use of water; and nothing in this act shall affect or limit in any manner whatsoever the right or power of any municipality which has heretofore appropriated or acquired water or the use of water for municipal purposes, to use or to sell or otherwise dispose of such water or the use thereof, either within or without its limits for domestic, irrigation or other purposes, in accordance with laws in effect at the time of the passage of this act.

Definitions.

SEC. 42. The word "water" in this act shall be construed as embracing the term "or use of water"; and the term "or use of water" in this act shall be construed as embracing the word "water." Whenever the terms stream, stream system, lake or other body of water or waters occurs in this act, such term shall be interpreted to refer only to surface water, and to subterranean streams flowing through known and definite channels. But nothing in this act shall be construed as giving or confirming any right, or title, or interest to or in the corpus of any water; *provided*, that the term "useful or beneficial purposes" as used in this act shall not be construed to mean the use in any one year of more than two and one-half acre-feet of water per acre in the irrigation of uncultivated areas of land not devoted to cultivated crops.

Rights to appeal unabridged.

SEC. 43. Nothing in this act shall be construed as depriving any person, firm, association or corporation of the right of appeal conferred under the laws of this state.

Acts in conflict repealed.

SEC. 44. All acts or parts of acts in conflict herewith are hereby repealed.

Title of act.

SEC. 45. This act shall be known as the "water commission act."

Constitutionality of act.

SEC. 46. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

III. OTHER STATUTES RELATING TO IRRIGATION.

1. CONSOLIDATION AND COOPERATION OF DISTRICTS.

A. CONSOLIDATION OF DISTRICTS.

An act to provide for the consolidation of districts organized or existing under the California irrigation district act.

(Approved June 1, 1921, Stats. 1921, p. 1018; amended Stats. 1925, p. 802.)

Consolidation of districts.

SECTION 1. Two or more districts organized or existing under the California irrigation district act may be consolidated as in this act provided and when so consolidated, the consolidated district shall possess all of the powers and be governed by and subject to all of the provisions of the California irrigation district act, except as in this act otherwise provided, as though originally organized under said act.

Petition.

SEC. 2. When in the judgment of the board of directors of an irrigation district it is for the best interest of such district that it be consolidated with one or more other districts organized or existing under said California irrigation district act or when there is presented to said board a petition signed by signers equal in numbers to and possessing the qualifications required by said California irrigation district act for a petition for the organization of a district, said board must pass a resolution reciting such facts and declaring the advisability of such consolidation and its willingness to consolidate and forward a copy thereof to the state engineer.

Investigation.

SEC. 3. Upon the receipt of the certified copy of such resolution adopted by two or more of such districts the state engineer shall forthwith make or cause to be made such investigation as he may deem necessary.

If report is favorable.

SEC. 4. Upon the completion of such examination but not more than ninety days after the receipt by him of a copy of the resolution from the board last adopting the same, the state engineer shall submit to the board of directors of each of said districts his report thereon.

In case said engineer shall consider the elimination of a portion of the lands included in any of the original districts advisable, he shall recommend the same in his said report, stating his reasons therefor. He shall also set out the boundaries of the consolidated district recommended and the divisions into which it is to be divided, the same being five in number.

If any of said lands so eliminated have never received water from the original district in which it was included, the owners thereof shall be entitled to the return of all assessments theretofore paid upon same. If any of said lands have theretofore received water, the said state

engineer shall recommend in his said report the portion, if any, of said assessments to the return of which the respective owners are equitably entitled. (Stats. 1925, p. 802.)

Election.

SEC. 5. Within ten days after receiving said report, if the state engineer deems such consolidation desirable, the board of directors of each of said districts must make an order calling a special election at which shall be submitted to the electors of such district possessing the qualifications prescribed by the California irrigation district act the question whether or not said consolidation shall be effected, which said election shall be conducted and the returns canvassed so far as practicable in accordance with the requirements for the general irrigation district election provided for in said act. Notice of such election shall be given for the time and in the manner provided for notice of special elections for the issuance of bonds in said California irrigation district act. The ballots shall contain the words "Consolidation—Yes" and "Consolidation—No," or words equivalent thereto, and if a majority of the votes cast in each district are "Consolidation—Yes," then such districts shall be consolidated.

At such election there shall also be elected the directors and other officers of the consolidated district who shall be nominated and voted for as provided for in the general election of an irrigation district. (Stats. 1925, p. 802.)

If report unfavorable.

SEC. 6. After receiving said report, if the said engineer deems such consolidation not desirable, or if no report is received from said engineer within ninety (90) days after the submission to him of said copy of said resolution from the board last adopting the same, said boards of directors, if they each shall determine and declare by resolution that the proposed consolidation is desirable, shall each make an order calling a special election in the same manner as provided in section five¹ hereof, which said election shall be conducted in the same manner and upon the same notice as provided therein.

Offices.

SEC. 7. In the original resolution of consolidation the boards of directors of the several districts shall specify the offices agreed upon for the consolidated district and upon the voters of said districts consolidating said districts as herein provided, the directors and other officers then elected shall thereupon become the officers of such consolidated district and shall qualify and organize in the manner provided for a newly organized district.

Apportionment of indebtedness.

SEC. 8. The report of the said engineer shall recommend the apportionment to the lands of the respective districts any outstanding

¹The act contains no section 5; reference evidently intended to apply to the fourth and fifth paragraphs of section 4.

indebtedness as he deems equitable, and the board of directors of the consolidated district, if such consolidation be made, shall within sixty (60) days after such consolidation act upon such recommendation and shall apportion to the lands of the said consolidated district any outstanding indebtedness as it deems equitable.

Name and powers of district.

SEC. 9. In the original resolution of consolidation the said boards of directors of the several districts shall specify the name agreed upon for the said consolidated district, and if such consolidation is adopted at such election, then said consolidation shall be effective and such consolidated district, under the said name, shall succeed to all of the rights, privileges and properties of all of the districts participating in such consolidation and shall be subject to all of the indebtedness, bonded and otherwise, thereof, as so respectively apportioned, and all future assessments necessary shall be levied in accordance with such apportionment.

Within ten days after said consolidation is made, the board of directors of said consolidated district shall make an order declaring such consolidation effective and setting out the date that same became effective and the boundaries of said consolidated district. A copy of said order, duly certified by the president and secretary thereof, shall be forthwith filed for record in the office of the county recorder of each county in which any lands of said district are situate.

Sale of bonds.

SEC. 10. Any bonds of any irrigation district, or districts, participating in such consolidation pursuant to the provisions of this act, which have been authorized by the electors of such district, or districts, prior to such consolidation, but which have not been issued, may, by order of the board of directors of the consolidated district, be sold or disposed of in the manner provided in sections thirty-two and thirty-two *a*, respectively, of the California irrigation district act, and the proceeds thereof applied to the purpose for which such bonds were authorized. (Stats. 1925, p. 802.)

B. WATER DISTRICT MAY INCLUDE TERRITORY OF AN IRRIGATION DISTRICT.

Section 1*a*, added, by Statutes 1921, p. 1142, to the act of June 13, 1913, which provides for organization of water districts by county boards of supervisors, authorizes "all or any part of lands embraced within the boundaries of any irrigation district" to be included in such a water district under certain conditions. Said section is printed below. For the entire text of the act, see Stats. 1913, p. 815; amended Stats. 1917, p. 1408; Stats. 1921, p. 1142. (Deering, Gen. Laws, Act No. 4349a.)

SEC. 1*a*. All or any part of lands embraced within the boundaries of any irrigation district now or hereafter organized under any law or laws whatsoever of the State of California may be organized into or included in a water district formed under the provisions of this act: *provided*, that eighty per cent of the land within the boundaries of the

proposed water district is not under irrigation at the time of the formation of the water district; *provided, further*, that no land within an irrigation district which is also within the boundaries of a water district formed under the provisions hereof shall be released from any of the burdens, obligations, liabilities, or control of or under said irrigation district by virtue of the formation of the water district and shall in every respect continue to be a part of said irrigation district despite the formation of said water district; *provided, further*, that such water district may not issue bonds in excess of such an amount as may be authorized and designated by the irrigation district bond commission created by the act entitled, "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, or such other state commission, department or agency that may supersede said commission or succeed to its functions. (Stats. 1921, p. 1143.)

C. COOPERATIVE AGREEMENTS WITH DISTRICTS IN OTHER STATES.

An act to provide for cooperation in acquisition, construction and management of irrigation and drainage works between irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for organization and government of irrigation districts and to provide for the acquisition thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and contiguous or adjoining districts in or organized under the laws of other states.

(Approved May 23, 1917; Stats. 1917, p. 905.)

Cooperation with districts in adjoining states.

SECTION 1. It shall be lawful for irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, to enter into agreements with irrigation districts in adjoining states for the joint construction, acquisition, management and control of diverting, impounding or distributing works for irrigation or draining lands within the boundaries of their respective districts.

Contracts.

SEC. 2. Such agreements may be evidenced by written contracts executed on behalf of their respective boards of directors or trustees, or by resolutions entered upon their respective minutes. Such contracts or certified copies thereof and certified copies of such resolutions shall be recorded in the office of the county recorder in each county in

which is situated any of the lands of said districts or any of the reservoir sites or other real property owned by said districts or acquired under the provisions of this act.

Property interests.

SEC. 3. Such agreements may provide for joint or several ownership or ownership in common of the property, necessary or convenient for the purposes of this act and may provide for the terms and conditions under which or the respective proportions in which such property shall be held. Any rights or disputes arising out of or from said agreements may be tried before and enforced by any court of competent jurisdiction in the state.

Meetings.

SEC. 4. Any meeting of the board of directors of any such district, held in conjunction with the board of directors of the cooperating district, in such district in the adjoining state, if duly and regularly called as required by law or if regularly adjourned to, shall be as lawful and valid as if held at the office of the board of directors of such district in this state.

Diversion of water.

SEC. 5. It shall be lawful, for the purposes of such cooperative action to divert water from this state for impounding in the adjoining state or otherwise for distribution to the lands of the cooperating districts regardless of the state in which such lands are situated or to divert water from such adjoining state for impounding or otherwise for distribution to the lands of such cooperating districts in this or the adjoining state.

Property outside state.

SEC. 6. So far as may be necessary for fully carrying out the purposes of this act such cooperating district in the adjoining state may hold title to property, in this state and such cooperating district in this state may hold title to property in the adjoining state.

D. COOPERATION WITH FEDERAL GOVERNMENT FOR CONSTRUCTION, OPERATION, OR MAINTENANCE OF WORKS.

An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district land; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and levy thereon, upon the lands of the district to secure revenue for such payments, and to provide for the judicial

review and determination of the validity of the proceedings in connection with such contract.

(Approved May 5, 1917; Stats. 1917, p. 243.)

Contracts with United States—irrigation or drainage.

SECTION 1. In addition to the powers with which irrigation districts have been vested under the act approved March 31, 1897, and acts amendatory thereof or supplementary thereto and acts of or to which said act is amendatory or supplementary, irrigation districts heretofore or hereafter organized under said acts shall have the following powers: To cooperate and contract with the United States under the federal reclamation act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of congress heretofore or hereafter enacted authorizing or permitting such cooperation, for purposes of construction of works, whether for irrigation or drainage, or both, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands.

General powers of district.

SEC. 2. The board of directors shall generally perform all such acts as shall be necessary to carry out the enlarged powers in this act enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes, and may provide therein for the delivery and distribution of water for the lands of such district under the aforesaid acts of congress and the rules and regulations established thereunder. The contract may provide for the conveyance to the United States as partial consideration for the privileges obtained by the district under said contract, of water rights or other property of the district; and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be transferred to, or deposited with the United States, if so provided by said contract and authorized as hereinafter set forth, at not less than ninety-five per cent of their par value, to the amount to be paid by the district to United States or any part thereof; the interest, or principal, or both, on said bonds to be raised by assessment and levy as hereinafter prescribed, and to be regularly paid to the United States and applied as provided in said contract. Bonds transferred to or deposited with the United States may call for the payment of such interest not exceeding six per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as may be agreed upon between the board and the secretary of the interior. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate as may be agreed upon, and for assessment and levy therefor as hereinafter provided. Moreover the board may accept on behalf of the district,

appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collection of moneys for or on behalf of the United States in connection with any federal reclamation project whereupon the district shall be authorized so to act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the federal government in regard thereto. Districts cooperating with the United States may rent or lease water to private lands, entrymen, or municipalities in the neighborhood of the district, in pursuance of contract with the United States.

Election.

SEC. 3. Any proposal to enter into a contract with the United States for the repayment of construction moneys, the cost of a water supply or the acquisition of property, and to issue bonds, if any be proposed, shall be voted upon at an election wherein proceedings shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds. Said proposal, with such plans and estimates of cost as have been made in connection therewith, shall be submitted to the state engineer for his examination and report, and the proceedings in that regard shall be in accord with section thirty of the act approved March 31, 1897, as amended, in so far as the same may be applicable. Notice of the election herein provided for shall contain in addition to the information required in the case of ordinary bond election a statement of the maximum amount of money to be payable to the United States for construction purposes, cost of water supply and acquisition of property, exclusive of penalties and interest, together with a general statement of the property, if any, to be conveyed by the district as hereinabove provided. The ballots at such election shall contain a brief statement of the general purpose of said contract and the amount of the obligation to be assumed, as aforesaid, with the words "Contract—Yes" and "Contract—No," or "Contract and bonds—Yes" and "Contract and bonds—No," as the case may be. The board of directors may submit any such contract or proposed contract and bond issue if any, to the superior court of the county wherein is located the office of said board to determine the validity thereof and the authority of the board to enter into such contract, and the authority for and validity of the issuance and deposit or transfer of said bonds; whereupon the same proceedings shall be had as in the ordinary case of the judicial determination of the validity of bonds and with like effect.

Distribution of water.

SEC. 4. All water, the right to the use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the acts of congress applicable thereto, the rules and regulations of the secretary of the interior thereunder, and the provisions of said contract, and provision may be made in the contract between the district and the United States

for the refusal of water service to any or all lands which may become delinquent in the payment of any assessment levied for the purpose of carrying out any contract between the district and the United States.

Rights of way.

SEC. 5. Any rights of way or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into with the United States pursuant to this act.

Assessments.

SEC. 6. All payments due or to become due to the United States under any contract between the district and the United States, including such payments of interest and principal on bonds as may be required in connection with a deposit or transfer thereof to the United States, shall be paid, unless otherwise provided by contract, by revenue derived from annual assessments, apportioned as hereinafter prescribed, and levies thereof, upon such real property within the district as may be assessable for district purposes under the laws of the state, and such real property shall be and remain liable to be assessed and levied upon for such payments as herein provided. It shall be the duty of the board of directors annually to levy an assessment sufficient to raise the money necessary to meet all payments when due as provided in the contract. All money collected in pursuance of such contract by assessments and levies, or otherwise, shall be paid into the district treasury and held in a fund to be known as the "United States contract fund," to be used for payments due to the United States under any such contract. Public lands of the United States within any district shall be subject to assessment for all purposes of this act to the extent provided for by the act of congress approved August 11, 1916, entitled "An act to promote reclamation of arid lands," or any other law which may hereafter be enacted by congress in the same relation, upon full compliance therewith by the district. Nothing in this act contained shall be construed to relieve the district from obligation to pay as a district in case of default of any land, unless so provided by the said contract between the district and the United States.

Assessments made for benefits.

SEC. 7. The assessment required in any year to meet the payment due to the United States for all purposes under the contract as in this act provided may be apportioned in accordance with the benefits, and in the ascertainment of such benefits there shall be taken into account the provisions of the contract between the United States and the district, the federal laws applicable thereto, and the notices and regulations issued in pursuance of said laws, and in case such contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on account of district lands, there shall be further taken into account the provisions of existing contracts carrying such indebtedness and the amounts of such liens as may

be released in pursuance of the contract between the United States and the district.

Change in district boundaries.

SEC. 8. Where contract shall have been entered into between the United States and any irrigation district the district shall not be dissolved, nor shall the boundaries be changed, except upon written consent of the secretary of the interior filed with the official records of the district. If such consent be given and lands be excluded, the areas excluded shall be free from all liens and charges for payments to become due to the United States.

Saving clause.

SEC. 9. The provisions of the general irrigation district act, approved March 31, 1897, and acts amendatory thereof or supplemental thereto, shall be and remain in force as regards irrigation districts in this act referred to except in so far as herein modified expressly or by necessary implication; and nothing in this act shall be so construed as to affect irrigation district operations not related to cooperation with the United States. However, the provisions of section fifty-three of said act, approved March 31, 1897, shall not apply in case of any contract between an irrigation district and the United States.

E. COOPERATION UNDER FEDERAL TWENTY YEAR EXTENSION ACT.

An act authorizing and empowering irrigation and reclamation districts to enter into contracts with the United States reclamation service for the reclamation of lands within such districts under the provisions of the so-called "twenty year extension act."

(Approved May 21, 1917; Stats. 1917, p. 781.)

Contracts with reclamation service.

SECTION 1. The board of trustees, or directors of any irrigation or reclamation district now organized under the provisions of the laws of the State of California, or of any irrigation or reclamation district hereafter organized under the laws of the State of California, may, in their discretion, whenever it is determined by such board that it is for the best interests of such districts, enter into a contract with the proper officers of the United States Reclamation Service for the reclamation, either by drainage or irrigation of lands within the boundaries of such district, or by preventing high water from overflowing the same, under the provisions of an act of congress approved August 13, 1914, entitled "An act extending the period of payment under reclamation projects, and for other purposes," which act is commonly known as the twenty year extension act, and from and after the execution of such contract, the amount of indebtedness created thereby shall be and become a lien upon the lands to be benefited by such reclamation work.

Payments.

SEC. 2. The board of trustees or directors of any irrigation or reclamation district above mentioned, shall provide by a resolution duly adopted at a regular meeting, or special meeting of such board called

for the purpose, for the payments of the amounts to become due under the contract with the United States, according to the provisions of such contract, by assessment upon the lands, in such district, which are to be benefited by such work, such assessment to be collected by the tax collector of the county within which such lands are situated, the same as other taxes are collected, or by any other officer authorized by law to collect assessments within said district.

F. DISTRICTS MAY UNITE FOR PRODUCTION OF MATERIALS.

POLITICAL CODE.

Cement plants, rock quarries, etc.

SEC. 4041e. Counties, cities and irrigation districts may jointly or severally purchase, lease, or otherwise acquire, or operate, manage and control rock quarries, rock plants, sand pits, cement plants, and other works or projects for the extraction, manufacture, or preparation of rock, sand, cement and other materials used by them in performing county, city, or district functions. (Section added, Stats. 1921, p. 191.)

2. CONSTRUCTION OF WORKS.

A. THE DOING OF PUBLIC WORK BY DAY LABOR.

An act relating to the doing of public work by day's labor or force account, except emergency and maintenance work and work costing less than ten thousand dollars; requiring the state highway engineer, state engineer, the state architect, county engineers, county surveyors, city and county engineers, county highway engineers, road commissioners, city engineers, commissioners of public works, superintendents of streets, harbor engineers, flood control engineers, and the engineers of any reclamation, irrigation or other districts, political subdivisions or agencies of the state directing, supervising or superintending such work, or in charge of the engineering for or in connection therewith, to keep the costs, prepare and file plans, specifications and estimates of cost, and, upon completion, prepare and file certificates of cost thereof; and providing for the keeping of such plans, specifications and certificates as public records.

(Approved June 21, 1923, Stats. 1923, p. 1053; amended Stats. 1925, p. 292.)

SECTION 1. It shall be the duty of the state highway engineer, the state engineer, the state architect, and of every county engineer, county surveyor, city and county engineer, county highway engineer, road commissioner, city engineer, commissioner of public works, superintendent of streets, harbor engineer, flood control engineer, the engineer of any board or commission of the state, the engineer of any board or commission of any city or city and county, and the engineer of any reclamation, irrigation or other district, political subdivision or agency of the state directing, supervising or superintending the construction, or in charge of engineering work for or in connection with the construction of any bridge, road, street, highway, ditch, canal, dam, tunnel, excavation, building or structure within the state by day's labor or force account, except maintenance work, work occasioned by emergency and work costing less than five thousand dollars, to keep an accurate account of the cost of such work; to prepare and file in his office, prior to the commencement of the work, full, complete and accurate plans and specifications, and an estimate of the cost thereof, except where other and adequate provision is made by law requiring the preparation and filing of such plans, specifications and estimates of cost by some other officer, or in some other office; and within sixty days from the completion of any such work, to prepare and file in the office of the county clerk of the county in which the work is performed, or if any such reclamation, irrigation or other district maintains an office, then in the office of his own such district instead of the office of the county clerk, a certificate in writing verified by him in the same manner as complaints in civil actions, setting forth the estimate of cost, names of bidders with prices bid, if bids there be, changes in adopted or approved plans and specifications, that the work performed has or has not been done in accordance with such plans and specifications, a list of any publicly owned equipment used in the work, and an itemized statement of the actual cost of all labor, materials, rentals,

repairs, compensation and other insurance, transportation of labor, equipment and materials, engineering or architectural services including the services of public employees in connection with such work, and any and all cost entering into the work performed, including a reasonable amount for depreciation of publicly-owned equipment used in the work and the costs of repairs thereon while so used. (Stats. 1925, p. 292.)

SEC. 2. Such plans, specifications and certificates shall be open to inspection and examination as a public record.

SEC. 3. Every such public officer or public employee mentioned in section one of this act who wilfully violates any of the provisions of this act is guilty of a misdemeanor. (Stats. 1925, p. 292.)

B. SECURITY FOR CLAIMS AGAINST CONTRACTOR.

An act to secure the payment of claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto.

(Approved May 10, 1919, Stats. 1919, p. 487; amended Stats. 1925, p. 538.)

SECTION 1. Every contractor, person, company, or corporation, to whom is awarded a contract for the improvement, erection or construction of any building, road, bridge or other structure, excavating, or other mechanical work for this state, or for any political subdivision or agency of the state shall, before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officers or board, in a sum not less than one-half of the total amount payable by the terms of the contract; such bond shall be executed by either two or more good and sufficient sureties or by corporate surety as provided by law, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company, or corporation, or his or its subcontractors, fail to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon such bond, a reasonable attorney's fee, to be fixed by the court. Such bond must by its terms inure to the benefit of any and all persons, companies and corporations entitled to file claims under this act so as to give a right of action to them or their assigns in any suit brought upon said bond. Unless such bond is filed as herein provided, no claim in favor of the contractor arising under such contract shall be audited, allowed, or paid by any public officer of this state, or of any political subdivision or state agency, but persons who have in good faith performed work upon such contract, or supplied materials for the execution thereof, shall, upon giving the notice prescribed in section two hereof, be entitled to receive payment of

their respective claims in the manner provided by sections one thousand one hundred eighty-four, one thousand one hundred eighty-four *a*, one thousand one hundred eighty-four *b*, and one thousand one hundred eighty-four *c* of the Code of Civil Procedure. (Stats. 1925, p. 538.)

County of Sutter vs. Superior Court, 188 Cal. 292;

Burr vs. Gardella, 53 Cal. App. 377;

McMorrey et al vs. Superior Court of Sutter County, 54 Cal. App. 76;

Evans vs. Shackelford, 64 Cal. App. 750.

SEC. 2. Any materialman, person, company or corporation furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person, company or corporation renting or hiring teams or implements or machinery for or contributing to said work to be done, or any person who performed work or labor upon the same, or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company or corporation, to whom the contract has been awarded, or by the subcontractors of said contractor, company, or corporation, may at any time prior to the expiration of the period within which claims of lien must be filed for record as prescribed by section one thousand one hundred eighty-seven of the Code of Civil Procedure file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, or with the controller, auditor, or other public disbursing officer whose duty it is to make payments under the provisions of such contract a verified statement of such claims, together with a statement that the same have not been paid. It shall be lawful for the state or any public board, commission, or officer thereof, or any political subdivision thereof, within ten days after the completion of any contract or structure, or work of improvement, provided for in this act, or within ten days after there has been a cessation from labor thereon for a period of thirty days, to file for record in the office of the county recorder of the county or counties where the property is situated, a notice setting forth the date when the same was completed or on which cessation from labor occurred, together with the name of the state or such public board, commission or officer thereof, or such political subdivision thereof and a description of the property or public work or structure sufficient for identification and the name of the contractor or contractors, the names of the sureties, if any, which notice shall be verified by some officer of the state or some member of such board, commission or officer thereof, or of such political subdivision thereof, and in case such notice be not so filed, the failure to so file shall have the same effect as is provided in section one thousand one hundred eighty-seven of the Code of Civil Procedure with reference to the "owner." Actions against the state, public board, commission, or officer thereof, or the political subdivision of the state, or the disbursing officer whose duty it is to make payments under the provisions of the contract for the public improvement in question, brought by any claimant who has filed claim under this act, or his assign, shall be governed by the provisions of section one thousand one hundred eighty-four, one thousand one hundred eighty-four *a*, one thousand one hundred eighty-four *b*.

and one thousand one hundred eighty-four *c* of the Code of Civil Procedure and the verified notice provided for in the said sections shall be equivalent for all purposes to the verified claim provided for herein.

No assignment by the contractor of the whole or any part of the money due him or to be due him under the contract, or for "extras" in connection therewith, whether made before a verified claim is filed as provided for herein or after said claim is filed, shall be held to take priority over claims filed under this section and such assignment shall have no binding force in so far as the rights of the claimants who file claims thereunder, or their assigns, are concerned; *provided*, that nothing in this section shall be construed to prohibit the payment of any money to the contractor or his assigns, so long as no verified claim is on file before the disbursing officer shall have actually surrendered possession of the warrant, checks, bonds, or money or the payment to said contractor or his assigns of any money due him or his assigns over and above the total amount of the claims filed at that time plus such interest and court costs as might be reasonably anticipated in connection with said claims.

Suit against the surety or sureties on the bond of the contractor required under section one hereof, may be brought by any claimant, or his assign, at any time after the claimant has ceased to perform labor or furnish material or both and until the expiration of six months after the period in which verified claims may be filed as provided herein. The filing of a verified claim shall not be a condition precedent to the maintenance of such action against the surety or sureties on the bond and an action on such bond may be maintained separately from and without the filing of an action against the board, commission, officer or other body by whom such contract was awarded. And upon the trial of any such action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

If the contractor, subcontractor or other person against whom any claim is filed as provided in this act shall dispute the correctness or validity of any claim so filed it shall be lawful for the controller, auditor or other public disbursing officer whose duty it is to make payments under the provisions of such contract or the commissioner, managers, trustees, officers, board of supervisors, board of trustees, common council or other body by whom the contract for the improvement was awarded, in its or his discretion, to permit contractor to whom said contract was awarded to deliver to such board, commission or officer a bond executed by some corporation authorized to issue surety bonds in the State of California, in a penal sum equal to one and one-fourth times the amount of said claim, which said bond shall guarantee the payment of any sum which said claimant may recover on said claim together with his costs of suit in said action, if he shall recover therein, and upon the filing of said bond by and with the consent of such board, commission or officer, then such board, commission or officer shall not withhold any moneys from said contractor on account of said claim. The sureties upon said bond shall be jointly and severally liable to said claimant

with the sureties upon the bond given in accordance with section one of this act.

County of Sutter vs. Superior Court, 188 Cal. 292;
Diamond Match Company vs. Aetna Casualty & Surety Company, 60 Cal.
App. 425;
Evans vs. Shackelford, 64 Cal. App. 750.

SEC. 3. The act entitled "An act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon state, municipal, or other public work," approved March 27, 1897, and all acts amendatory thereof are hereby repealed; saving to all persons, however, all rights which have accrued under the provisions of said statutes, or any thereof.

3. DISSOLUTION OF DISTRICTS.

A. VOLUNTARY DISSOLUTION OF DISTRICT.¹

An act to provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property.

(Approved February 10, 1903, Stats. 1903, p. 3. Amended 1909, p. 139; 1911, Ex. Sess., p. 113; 1913, p. 39; 1915, p. 859.)

District may dissolve.

SECTION 1. Any irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and all acts supplementary thereto or amendatory thereof, including an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and also, to provide for the distribution of water for irrigation purposes," approved March 31, 1897, may be dissolved in the manner hereinafter provided; *provided*, that in case a contract authorized by law has been made between the district and the United States for the construction, operation and maintenance of the necessary works for the delivery of water or for a water supply, no such district shall be dissolved and no proceedings entertained by any court or otherwise looking to the dissolution of such district, until the written assent of the secretary of the interior be given to such dissolution. (Stats. 1915, p. 859.)

Petition.

SEC. 2. A majority in number of the holders of title, or evidence of title, to real property in any irrigation district, and a majority in value of said property according to the equalized assessment roll of said district for the year last preceding upon which any assessment has been made, may propose the dissolution of said district by a petition signed by such majority, which petition shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if such there be, together with a general description of the same, and the holders, so far as known, showing the amount of each description of indebtedness and the ownership, so far as known, of the same. Also the estimated cost of the dissolution of said district. Said petition shall also state the assets of said district, including irrigation system, if any, dams, reservoirs, canals, franchises, water rights, a detailed statement of all the lands sold to the district for assessments, and the amount of the assessments on each parcel of land sold, also all assessments unpaid, and the amount upon each lot or tract of land, and all other assets of the district; and in case any proposition has been made by the holders of said indebtedness to settle the same, said proposition, together with any plan proposed to carry the same into execution, shall be included in said petition.

Escondido Mut. Water Co. vs. Escondido, 169 Cal. 774;
Byington vs. Sac. Valley Westside Canal Company, 170 Cal. 124.

¹Sale or lease and operation of canal and works of dissolved district.

SEC. 2½. (Added, Stats. 1911, Ex. Sess., p. 118; probably superseded by Sec. 2a, added Stats. 1913, p. 39.)

Election.

SEC. 2a. In case an irrigation district has no indebtedness not barred by the statute of limitations and no assets and has ceased to be a going concern and has no irrigation system by which it conveys water for irrigation or domestic purposes to any of the residents of such district, the petition for dissolution mentioned in section two of said act shall contain statements showing such facts and also that it is the desire of the signers of such petition to have said district dissolved, and such petition need not contain any other statement or allegation, and such petition need only be signed by two-thirds of the qualified electors residing in such district, and by the holders of title or evidence of title representing at least fifty per cent of the acreage within said district and not less than fifty per cent in value of all lands lying within the exterior boundaries of said district, the value of said lands to be determined by the last equalized assessment roll of said district, and such petition so signed and containing such statements and allegations shall be sufficient. In such case the plan of dissolution referred to in section three of said act may be entirely omitted and it shall not be necessary for the petitioners or persons signing such petition, or for the board of directors of such district to propose any plan for the dissolution of such district or any plan for the liquidation of its indebtedness or the distribution of its assets; *provided*, that the petition shall further recite the fact that an application will be made to the superior court of the State of California in and for the county in which the office of the board of directors of such district is required to be kept, for a decree of dissolution of said district under the provisions of said act. And in the case mentioned in this section, it shall not be necessary to obtain the assent of any holder of any indebtedness or evidence of indebtedness of said district barred by any statute of limitations of this state before the election provided for in said section three, shall be called. Upon the filing of said petition with the board of directors of said district said board shall call a special election at which shall be submitted to the electors of such district the question whether or not said district shall be dissolved. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, and the fact that it is proposed to dissolve the district. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with provisions of law governing the election of officers in irrigation districts. At such election the ballot shall contain the words "Dissolution of the district—Yes" or "Dissolution of the district—No," or words equivalent thereto. It shall not be necessary in winding up the affairs of any district organized under the laws of this state to pay all or any portion of any debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this state, nor

to pay any bond, coupon, warrant or other indebtedness, claim or demand which shall be barred by the laws of this state prior to the filing of the petition for dissolution with the board of directors of such district. (Stats. 1913, p. 39.)

Dissolution of district.

SEC. 3. Upon the filing of said petition with the board of directors of said district said board shall call a special election, at which shall be submitted to the electors of such district the question whether or not said district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan so proposed, or in case no plan has been proposed, then in accordance with a plan which shall be proposed by said board of directors in the notice of the election, but no such election shall be called until the assent of all the known holders of valid indebtedness against the district shall be obtained or provision shall be made in said plan for the payment of such nonassenting holders. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, the fact that it is proposed to dissolve the district, and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At such election the ballot shall contain the words "Dissolution of the district—Yes," or "Dissolution of the district—No," or words equivalent thereto.

Action in superior court.

SEC. 4. In case upon such canvass it is found and declared by said board of directors that two-thirds of the votes cast at such election shall be cast in favor of "Dissolution of the district—Yes," then the said board of directors shall file a petition in the superior court of the county wherein is located the office of such board to determine the validity of the proceedings had and of the proposed plan for the dissolution of said district. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending; *provided*, that if the property of the district is situate in more than one county then the publication shall be made in one paper in each county wherein the same is situate, such paper or papers to be designated by the court having jurisdiction of the proceeding; jurisdiction shall be complete in thirty days after the completion of such notice in the manner herein provided. Anyone interested may at any time before the expiration of said thirty days appear and contest the validity of the proceedings already had and of the plan proposed for the dissolution of said district, or any portion thereof, including the validity of any portion of the

indebtedness set out in said petition, and the court may determine the validity of any sales for assessments, and may determine the amount of any assessment or assessments due upon the various parcels and lots of real estate within said district, and may determine the amount of any assessment or assessments theretofore paid upon the various parcels and lots of real estate therein, and may in said proceeding adjust and determine the rights and liabilities of all parties. Such action shall be speedily tried and judgment rendered. Either party shall have the right to appeal at any time within thirty days after the entering of such judgment, and the appeal must be heard and determined within three months after the taking of such appeal.

Procedural rules.

SEC. 5. Said petition to the superior court shall set forth the facts required to be set forth in the petition to the board of directors and all the proceedings therein, and at the hearing the court shall hear and determine the regularity, legality, and correctness of all proceedings, and in doing so shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceeding herein provided. The cost of any contest may be allowed and proportioned between the parties or taxed to the losing party in the discretion of the court, and no contest of any matter or thing herein provided for shall be made other than in the time and manner herein specified.

Assessment payer may bring action.

SEC. 6. If no such proceeding shall have been filed by the board of directors within thirty days after the canvass of said vote, then any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located. The board of directors shall be made parties defendant and notice shall be served on the members of the board personally, if they can be found in the state, if not, then service by publication as provided in section 4, shall be sufficient. Proceedings shall be had in the same manner and with the same effect as if brought by the board of directors.

Corporation may be organized to take over property.

SEC. 7. A corporation may be organized under general laws for the purpose of acquiring the assets of said district, including the irrigation system, if any, dams, reservoirs, canals, franchises and water rights, which corporation shall have all the powers, rights and franchises of corporate bodies organized under general laws, and in addition shall have such further powers as may be necessary to possess and carry on said irrigation system and exercise such franchise and water rights.

Discharge of debts and distribution of assets.

SEC. 8. The court in its decree shall have power to make the orders necessary to carry out said proposition for the discharge of the indebt-

edness and distribution of the property of said district, including the right to apportion any indebtedness found due, and to declare said portions liens upon the various parcels and lots of land within the district, and may decree a sale of its assets in such manner as may effectuate said proposition and as the said court may judge best, either in one lot or in such parcels as may be provided, and may provide for conveyance of said irrigation system, including dams, reservoirs, canals, franchises and water rights, and also of any other assets of the district, including lands sold thereto and the assessments due it.

Assessment liens.

SEC. 9. The amounts of any assessment or assessments found due upon the various parcels and lots of real estate within said district, and the amounts for which sales have been made, which sales have been determined to be valid by said court, together with legal interest from the date of said sales and from the time when said assessments become delinquent, shall be liens respectively on the lots and parcels affected thereby, and the purchaser or purchasers at said sale may foreclose the same by action in the superior court, and shall in said action join all lots, assessments, and sales which may have been purchased by him and which remain unredeemed. A redemption may be made at any time by payment of the amount due to the clerk of the court for the use of the district if before sale, and for the use of the purchaser if after sale, and the clerk shall thereupon enter a minute of said payment, which payment shall be in the discharge of said lien. Redemption from the lien created for any portion of the indebtedness can be had in this manner.

Balance of funds apportioned.

SEC. 10. Whenever all the property of such irrigation district shall have been disposed of, and all the indebtedness and obligations thereof, if any there be, shall have been discharged, the balance of the money of said district shall be distributed to the assessment payers in said district upon the last assessment-roll in the proportion in which each has contributed to the total amount of said assessment, and the court shall enter a final decree declaring said district to be dissolved.

Debts barred by statute of limitations.

SEC. 10½. In the petition mentioned in section 2 of this act it shall not be necessary to include in the schedule of indebtedness any bond, coupon, warrant or other indebtedness, claim or demand which shall have been barred by the laws of this state prior to the filing of said petition with the board of directors of said irrigation district, nor shall it be necessary in winding up the affairs of any district organized under the laws of this state to pay all or any portion of a debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this state. (New section approved March 3, 1909. Stats. 1909, p. 139.)

SEC. 11. This act shall take effect immediately.

B. INVOLUNTARY DISSOLUTION OF DISTRICT.

An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved.

(Approved May 19, 1919, Stats. 1919, p. 751; amended, Stats. 1925, p. 220.)

As to quo warranto proceedings under Sec. 803, of the Code of Civil Procedure, see:

People vs. Selma Irr. Dist., 98 Cal. 206;

People vs. Jeffords, 126 Cal. 296;

People vs. Perris Irr. Dist., 132 Cal. 289;

Byington vs. Sac. Valley Westside Canal Company, 170 Cal. 124.

Conditions for.

SECTION 1. Section one of an act entitled "An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved," approved May 18, 1919, is hereby amended to read as follows:

Section 1. Any irrigation district organized under any of the laws of the State of California, providing for the organization of irrigation districts, which

(a) Has been organized more than three years and has failed and neglected to secure an adequate water supply and which does not have a reasonable prospect of securing an adequate water supply for the lands of the district without prohibitive cost, and has failed and neglected to obtain the approval of the state water commission of the water supply of said district and has failed and neglected to obtain the approval of the state engineer of the plans of said district, and has failed and neglected to construct or acquire a system of works or the financing thereof, and has failed and neglected to obtain the approval of the irrigation district bond commission; or

(b) Has been organized for more than ten years and for more than five years after the construction or acquisition of a system of works has failed and neglected to maintain such works, or for five years or more after such works have been constructed or acquired has failed and neglected to supply or make available, water for the irrigation of more than ten per cent of the lands of the district;

May be dissolved and annulled by the superior court of the county in which said district is located by proceedings in an action brought by the attorney general in the name of the people of the State of California, upon his own information. Before such an action can be commenced in the courts the attorney general shall publish for two consecutive weeks in some newspaper published in the county in which the greater portion of the district is located, a notice to all parties in interest that it is his intention to begin such action for the dissolution of said district. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceedings herein provided. (Stats. 1925, p. 220.)

Investigation by state engineer.

SEC. 2. Before the trial of the case the court may direct the state engineer to investigate all the affairs of said district; the water supply that may be obtained without prohibitive cost; the feasibility and prac-

ticability of irrigating all or a reasonable amount of the lands of said district; and all other matters which the court may direct, or the state engineer may deem pertinent as affecting the possible success or failure of the district as an irrigation enterprise and which may be necessary to enable the court to determine the question of dissolution.

For the purpose of making such investigation, the state engineer shall have access to all the records of the district, and all officers and employees and other persons in any manner connected with or employed by said district shall furnish such information as he may require which has already been obtained or determined, including maps, plans, estimates, field notes, and other data.

The state engineer shall report his findings and conclusions to the superior court as soon as practicable, but within ninety days unless a longer time be granted him by the court, but in no case to extend beyond the period of one hundred eighty days in all.

Dissolution and disposition of property.

SEC. 3. Upon final judgment of dissolution in such action, the district in question shall be deemed dissolved and annulled. The court shall determine the amount of indebtedness outstanding against said district, including the costs of the court action herein provided for, and thereafter the appropriate county officers shall act as *ex officio* officers of the district; the records and papers of every kind belonging to the district shall be turned over to the proper county officers. The county treasurer shall perform the duties of the district treasurer; the county tax collector shall perform the duties of the district tax collector; the county assessor shall perform the duties of the district assessor; the county clerk shall perform the duties of the secretary of the board of directors; the board of supervisors shall perform the duties of the board of directors; they shall proceed to levy and collect such additional taxes as may be necessary upon the lands embraced within such district in the same manner and with the same procedure for non-payment that county taxes are levied and collected for the purpose of paying such outstanding indebtedness not provided for by previous assessments. All property of every kind belonging to the district, including lands sold to the district for taxes, shall be sold as the court may direct and the proceeds together with all money on hand shall be used to pay off the indebtedness. All funds remaining after all outstanding indebtedness has been paid shall be apportioned and be paid to the assessment payers according to the last assessment roll.

Outstanding indebtedness no bar to dissolution.

SEC. 4. The outstanding indebtedness, whether of bonds, warrants, or otherwise, of any irrigation district shall not operate as a bar to dissolution by the superior court when provision is made for the payment of such indebtedness in the manner provided in section three of this act.

Alternative method.

SEC. 5. This act is designed to provide an alternative method for the dissolution of irrigation districts and shall not be deemed to repeal any other statute or statutes.

4. STOCKS AND BONDS.

A. ACQUIRING STOCK IN FOREIGN CORPORATION.

STATE CONSTITUTION, ARTICLE IV, SEC. 31.

* * *; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country. (Amendment adopted November 3, 1914. Above provision unchanged by amendment to this section adopted November 7, 1922.)

B. BONDS EXEMPT FROM TAXATION.

STATE CONSTITUTION, ARTICLE XIII, SEC. 1 $\frac{3}{4}$.

All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said state, shall be free and exempt from taxation. (New section adopted November 4, 1902.)

C. PAYMENT OF BONDS.

STATE CONSTITUTION, ARTICLE XI, SEC. 13 $\frac{1}{2}$.

Any county, city and county, city, town, municipality, irrigation district, or other public corporation, issuing bonds under the laws of the state, is hereby authorized and empowered to make said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds. (Amendment adopted November 3, 1914.)

D. BOND CERTIFICATION COMMISSION.

An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized.

(Approved June 13, 1913; Stats. 1913, p. 778. Amended Stats., 1915, p. 692; 1917, p. 582; 1919, p. 1207; 1921, p. 1198.)

Resolution declaring bonds available as legal investments.

SECTION 1. Whenever the board of directors of any irrigation district organized and existing under and pursuant to the laws of the State of California shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of said district, including any of its bonds authorized but not sold, shall be made available for the purposes provided for in section seven of this act, the said board of

directors shall thereupon file a certified copy of such resolution with the commission hereinafter provided for.

Report of irrigation district bond commission.

SEC. 2. Such commission, upon the receipt of a certified copy of such resolution, shall, without delay, make or cause to be made an investigation of the affairs of the district and report in writing upon such matters as it may deem essential, and particularly upon the following points:

(a) The supply of water available for the project and the right of the district to so much water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the district's irrigation system and of the specific project for which the bonds under consideration are desired or have been used, whether such system and project be constructed, projected or partially completed.

(d) The reasonable market value of the water, water rights, canals, reservoirs, reservoir sites and irrigation works owned by such district or to be acquired or constructed by it with the proceeds of any of such bonds.

(e) The reasonable market value of the lands included within the boundaries of the district.

(f) Whether or not the aggregate amount of the bonds under consideration and any other outstanding bonds of said district, including bonds authorized but not sold, exceeds sixty per centum of the aggregate market value of the lands within said district and of the water, water rights, canal, reservoirs, reservoir sites, and irrigation works owned, or to be acquired or constructed with the proceeds of any of said bonds, by said district, as determined in accordance with paragraphs (d) and (e) in this section.

(g) The numbers, date or dates of issue and denominations of the bonds, if any, which the commission shall find are available for the purposes provided for in section seven of this act, and, if the investigation has covered contemplated bonds, the total amount of bonds which the district can issue without exceeding the limitation expressed in paragraph (f) of this section.

Certification by state controller.

SEC. 3. The written report of the investigation herein provided for shall be filed in the office of the state controller, and a copy of said report shall by the commission be forwarded to the secretary of the district for which the investigation shall have been made, and if said commission shall have found, as set out in said report, that the irrigation system of the district and the specific project for which the bonds under consideration are desired or have been used, whether such project be constructed, projected or partially completed, are feasible and that the aggregate amount of the bonds under consideration and any other outstanding bonds of said district, including bonds authorized but not sold, does not exceed sixty per centum of the aggregate market value of

the lands within said district and of the water, water rights, canals, reservoirs, reservoir sites, and irrigation works owned or to be acquired or constructed with the proceeds of any of said bonds by said district, the bonds of such irrigation district, as described and enumerated in said report filed with the state controller, shall be certified by the state controller, as hereinafter provided for. If the commission shall be notified by the board of directors of any district whose irrigation system has been found in such report to be feasible that the district has issued bonds and the commission shall find that said bonds are for any project or projects approved in such report and that the amount of said bonds does not exceed the limitation stated in such report, the commission shall prepare and file with the state controller a supplementary report giving the numbers, date or dates of issue and denominations of said bonds, which shall then be entitled to certification by the state controller as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but, after any of the bonds of an irrigation district have been enumerated and described as entitled to certification by the state controller as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the state controller to provide for filing and preserving the reports mentioned in this section and, also, to make, keep and preserve a record of the bonds certified by him in accordance with the provisions of section four of this act, including the date of certification, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity.

Provisions of section two directory.

SEC. 3a. The provisions of section two of this act as to the points upon which said commission shall report are directory merely and the board may authorize such certification when in their opinion, subject to the provisions otherwise contained in this act, their findings justify such action. (Stats. 1917, p. 583.)

No expenditures without consent of commission.

SEC. 3b. Whenever the bonds of any irrigation district have been certified as provided in this act, no expenditures shall be made from the proceeds of such bonds, nor shall any liability to be met from such proceeds be incurred, until there shall have been filed with and approved by said commission such a schedule of proposed expenditures of such proceeds as may be necessary to set forth to the satisfaction of said commission the plan proposed for carrying out the purposes for which said bonds were authorized, or such of said purposes as the district may, at the time of filing such schedule, desire to proceed with; and no expenditures from the proceeds of said bonds shall be made for any purpose not specified in such approved schedule or for any approved purpose in excess of the amount allowed therefor in such schedule without the consent of said commission; nor shall any expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise except as provided in section fifty-nine of the California irrigation district act. During the progress of any work to be

paid for from the proceeds of any bond issue certified as in this act provided, the department of engineering, on behalf of the commission herein authorized, shall make from time to time, at the expense of the district, such inspection of the work as may be necessary to enable the said department to know that the plans approved by the commission are being carried out without material modification unless such modification has been approved by said commission. (Stats. 1921, p. 1198.)

Certification of bonds as needed.

SEC. 3c. Whenever the survey, examinations, drawings and plans of an irrigation district, and the estimate of cost based thereon, shall provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with section thirty of the California irrigation district act, and in accordance with a plan or schedule adopted by resolution of the board of directors of the district, it shall not be necessary for the commission to certify at one time all of the bonds that have been voted for the said completed project; but such bonds may be certified from time to time as needed by the district. If the commission shall certify all of the bonds necessary for the said completed project, even if said project is to be constructed progressively over a period of years in accordance with the aforesaid resolution of the board of directors, the bonds so voted and certified shall only be sold after prior written approval of the commission. (Stats. 1919, p. 1207.)

Form of controller's certificate.

SEC. 4. Whenever any bond of an irrigation district organized and existing as aforesaid, including any bond authorized in any such district but not sold, which shall be eligible to certification by the state controller under section three of this act, shall be presented to the state controller, he shall cause to be attached thereto a certificate in substantially the following form:

Sacramento, Cal., ----- (insert date).

I, -----, controller of the State of California, do hereby certify that the within bond, No.----- of issue No.----- of the ----- irrigation district, issued ----- (insert date), is, in accordance with an act of the legislature of California approved -----, a legal investment for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the state school funds and any funds which may be invested in county, municipal or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city, city and county, or school district may be so deposited, it being entitled to such privileges by virtue of an examination by the state engineer, the attorney general and the superintendent of banks of the State of California in pursuance of said act. The within bond may also, according to the constitution of the State of California, be used as security for the deposit of public money in banks in said state.

Controller of State of California.

In case of a change in the constitution or any of the laws of this state relating to the bonds of irrigation districts, the state controller shall, if necessary, modify the above certificate so that it shall conform to the facts.

A facsimile of the controller's signature, printed or otherwise, impressed upon said certificate shall be a sufficient signing thereof; *provided*, that the imprint of the controller's seal thereon shall appear upon both the certificate and the bond over and through the printed signature. (Stats. 1915, p. 692.)

Irrigation district bond certification commission created.

SEC. 5. The attorney general, the state engineer and the superintendent of banks are hereby constituted the California bond certification commission, being the commission herein provided for, and said commission shall elect one of its members chairman and may employ such clerks and assistants as may be necessary for the performance of the duties herein imposed, and may fix the compensation to be paid to such clerks and assistants. (Stats. 1921, p. 1199.)

Expenses.

SEC. 6. All necessary expenses incurred in making the investigation and report in this act provided for shall be paid as the commission may require by the irrigation district whose property has been investigated and reported on by the said commission; *provided*, that the benefit of any services that may have been performed and any data that may have been obtained by any member of said commission or any other public official in pursuance of the requirements of any law other than this act, shall be available for the use of the commission herein provided for without charge to the district whose affairs are under investigation.

Bonds certified legal investments for trust funds, etc.

SEC. 7. All bonds certified in accordance with the terms of this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, such money or funds may be invested in the said bonds of irrigation districts, and whenever bonds of cities, cities and counties, counties, school districts or municipalities may by any law now or hereafter enacted be used as security for the performance of any act, bonds of irrigation districts under the limitations in this act provided may be so used.¹ This act is intended to be and shall be considered the latest enactment upon the matters herein contained, and any and all acts in conflict with the provisions hereof are hereby repealed.

"Irrigation" includes "water conservation."

SEC. 8. The words "irrigation districts" wherever used herein for all purposes hereof shall be deemed to include water conservation districts. (Stats. 1921, p. 1199.)

¹For acts authorizing investments in irrigation district bonds, see Appendix, hereof.

E. REFUNDING BONDS.

An act to authorize irrigation districts to refund outstanding bonded indebtedness.¹

(Approved May 25, 1919; Stats. 1919, p. 1004.)

Election on question of refunding indebtedness.

SECTION 1. The board of directors of any irrigation district organized or existing under or subject to the provisions of the California irrigation district act approved March 31, 1897, as amended, providing for the organization and government of irrigation districts, that has an outstanding indebtedness evidenced by bonds lawfully issued prior to January 1, 1913, may, by a majority vote of the members of the board, submit to the electors of the irrigation district at any election the proposition of the issuance of new bonds for the purpose of refunding the bonds outstanding, as the same become due. Such election shall be held, and the vote thereon shall be the same as provided by the California irrigation district act for the issuance of other irrigation district bonds; *provided*, no petition therefor need be circulated or signed; *and provided, further*, that a majority of the votes of those voting on said proposition shall be sufficient to carry the same. Such bonds shall bear interest at a rate the same as or lower than the bonds to be refunded and no refunding bond shall have a later date of maturity than twenty years from the date of its issue.

Form of refunding bonds.

SEC. 2. The refunding bonds shall be issued in substantially the manner and in the form required by law for the issuance of other bonds of the district. These bonds may be sold from time to time in the same manner as other bonds of the district, or, if the directors of the district and the holders of any of the bonds reaching maturity so elect, they may be exchanged in payment of the bonds so maturing as such bonds mature.

Assessment to pay interest and principal.

SEC. 3. The board of directors shall cause to be assessed and levied each year upon the assessable property in the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on or any principal of such refunding bonds in the same manner as is provided in the California irrigation district act in the case of other bonds.

F. BOND VALIDATING ACT.

An act to validate certain bonds of certain irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

(Approved May 19, 1925; Stats. 1925, p. 373.)

SECTION 1. Whenever prior to the taking effect of this act proceedings have been taken by any irrigation district organized or purported

¹See also "An act to provide for the issue and sale or exchange of funding bonds of irrigation districts organized under and in pursuance of an act of the legislature of the State of California entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes,' approved March 7, 1887, to provide for the payment of such bonds, and for proceedings to test the validity of the same," approved April 1, 1897, Stats. 1897, p. 394; amended Stats. 1901, p. 514.

to be organized under any law or laws of this state, for the issuing and selling of bonds of such district for any purpose or purposes, all the acts and proceedings of the board of trustees of such district and all of the acts of the board of supervisors of the county or counties in which such district or any part thereof is situated and all of the acts of all public officers in connection therewith leading up to and including the issuance of such bonds if they have hitherto been issued or sold, and all such acts and proceedings heretofore had although the bonds are not yet issued or sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district to issue such bonds is hereby acknowledged, granted, ratified, confirmed and declared, and the bonds heretofore issued and sold and the bonds heretofore authorized to be issued which may be hereafter issued and sold are declared to be and shall be, the legal and binding obligations of, and against the district having heretofore issued, or hereafter issuing, such bonds, and the faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the board of trustees of the district and the board of supervisors of the county or counties in which such irrigation district or any part thereof lies, and the various county officers of the respective counties who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers, and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes, and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts.

SEC. 3. This act shall not operate to legalize the sale hereafter of any bonds of any such district at a price of less than par, nor to legalize any bonds in cases where the question of issuing the same has been submitted to the vote of the qualified electors or of the taxpayers, and has failed to obtain the number of favorable votes required by the particular statute under which the proceedings were taken.

5. TAXES AND ASSESSMENTS.

A. ASSESSMENTS, PAYABLE IN TWO INSTALLMENTS.

An act to permit boards of directors of irrigation districts organized or existing under and by virtue of an act of the legislature, entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897; to provide for the payment in two installments of the assessments levied under and in accordance with the provisions of said act.

(Approved March 19, 1909; Stats. 1909, p. 415.)

Payment of assessments in two installments.

SECTION 1. It shall be lawful for boards of directors of irrigation districts, organized or existing under or by virtue of an act of the legislature, entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts and also, to provide for the distribution of water for irrigation purposes"; approved March 31, 1897; to provide for the payment of assessments levied in accordance with the provision of said act, in two installments.

Resolution by directors.

SEC. 2. The directors of any such irrigation district may, whenever they shall so determine, and must upon a petition in writing, signed by a majority of the assessment payers within such district, pass a resolution providing that thereafter all assessments, except special assessments provided for by section thirty-four of said act of 1897, shall be payable in two installments, and in said resolution shall specify when such payments may be made.

Time of passing or rescinding resolution.

SEC. 3. Such resolution must be passed before the first Monday in August, and can not be rescinded to take effect during any year after the first Monday of March in that year.

When assessments become delinquent.

SEC. 4. Whenever the board of directors of such irrigation district shall have so determined, thereafter one-half of the assessments levied within such district shall become delinquent at six o'clock p.m. on the last Monday of December, and one-half thereof shall become delinquent at six p.m. on the last Monday of June next thereafter; *provided*, that where an assessment has been levied as provided in section 34 of said act the whole of such assessment shall become delinquent on the last Monday in December.

Effect of act.

SEC. 5. When provision is made, as herein provided, for the payment of said assessments in two installments, the publication of the delinquent

list provided for in said act, shall not be made before the first day of July, but must be made on or before the first day of August, and except as otherwise herein provided all of the provisions of said irrigation act or acts not inconsistent with this act relative to the assessment, payment and collection of assessments, notice of assessments, publication of delinquent list, and sale for delinquent assessment, and all other provisions relative to such assessments shall be applicable, and the only effect of this act shall be to permit the payment of such assessments in two installments, and to postpone the notice of sale and sale provided for in said act until after the first day of July, and when sale is made at the time herein specified it shall have the same effect as though made at the time and in the manner specified in said act of 1897.

B. ASSESSMENT OF PUBLIC LANDS.

An act to promote the reclamation of arid land and to provide that certain land belonging to the State of California, within the boundaries of an irrigation district shall be subject to the assessments levied in said district.

(Approved May 25, 1917; Stats. 1917, p. 936.)

State lands in district to be assessed.

SECTION 1. Whenever there shall be included in any irrigation district organized and existing under the laws of this state, public lands belonging to the state subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of law relating to the organization, government and regulation of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; *provided, however*, that nothing herein contained shall be construed as creating any obligation against the State of California to pay any of said charges, assessment or debt.

Notice served on surveyor general.

SEC. 2. All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the surveyor general of the State of California by mailing to his office a copy thereof enclosed in a sealed envelope with postage prepaid.

Assessment a lien.

SEC. 3. No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

C. CANCELLATION OF TAXES.

POLITICAL CODE.

Cancellation of taxes erroneously or illegally assessed.

3804a. Any uncollected tax, or assessment, or portion thereof, or penalty or costs thereon, heretofore or hereafter assessed, charged or levied more than once, or erroneously or illegally, or upon that portion of an assessment found to be in excess of the actual cash value of the property assessed, by reason of a clerical error of the assessor, or upon an assessment for improvements on land when such improvements did not in fact exist at the time said tax or assessment became a lien, or upon an assessment of property which after the time said tax or assessment became a lien was acquired and owned by the state, or by any county, city and county, municipal corporation, school district or other political subdivision and which, because of such public ownership, is not subject to sale for delinquent taxes, may, upon satisfactory proof thereof, be canceled by the officer having custody of the record thereof upon the order of the board of supervisors, or other governing board with the written consent of the district attorney, city attorney or legal advisor of said board; *provided*, that no cancellation shall be made of such charges on property exempt from taxation in event of failure to comply with the provisions of law, if any, relative to the manner of claiming such exemptions.

If real property has been sold to the state or other subdivision for nonpayment of any tax levied as described in this section, and a certificate of sale or deed therefor has been issued to the state, or other subdivision and the state or other subdivision has not disposed of the property so sold, the order of the board shall also direct the officer having custody of the record thereof to cancel the certificate of sale or deed so issued.

In the city and county of San Francisco, the written consent of the city attorney shall have the same effect as the written consent of the district attorney. (Stats. 1925, p. 431.)

6. SUPERVISION OF DESIGN AND CONSTRUCTION OF DAMS.

An act to appropriate money to be expended by and under the direction of the department of engineering for the purpose of rectifying and improving the channels of the Sacramento, San Joaquin and Feather rivers and such other waters of the state as the department of engineering may determine; improving the navigability of such waters and acquiring land for necessary rights of way therefor; making surveys, investigations and report upon the feasibility of canalizing the rivers of the state and constructing canals for navigation, and making surveys, investigations and plans for flood control; the examination and supervision of dams; the investigation of rainfall, snowfall and runoff affecting navigation and flood control; and giving the department of engineering authority over dams, making it unlawful to construct or maintain dams in a dangerous condition and providing penalties for violations of the act and directing who shall prosecute such violations.

(Approved May 14, 1917; Stats. 1917, p. 516.)

SEC. 2. (a) All dams in the State of California, other than those for impounding mining debris constructed under the authority of the California debris commission, or dams constructed by a municipal corporation maintaining a department of engineering, shall be under the authority of the state department of engineering, and the department shall exercise supervision over any dam, the failure of which would endanger life or property, and shall have power to prescribe and enforce compliance with measures for making such dams safe against failure; *provided*, that this section shall not apply to any dam which is part of a "water system" as defined in section two of the public utilities act of this state, and nothing in this act shall be construed to limit the jurisdiction of the railroad commission over such dams.

(b) It shall be unlawful for any person, firm, corporation or district to construct, maintain or operate any dam known to be unsafe, or which if the destruction or failure thereof would endanger life or property; or to construct, reconstruct, repair or improve, maintain or operate any dam which is or would be ten feet or more in height or which will impound water or other fluid to the amount of three million gallons unless the plans, specifications and construction thereof shall have been approved in writing by the state department of engineering.

(c) Any person, firm, corporation or district who shall violate the provisions of this section is subject to a penalty of not less than five hundred nor more than two thousand dollars for each and every offense. Each day that such violation of the provisions of this section shall continue shall be deemed and considered a separate and distinct offense.

(d) Any person acting for himself as owner, or as director, officer, agent or employee of any firm, corporation or district engaged in the construction, reconstruction, improvement or repair of any dam, the plans and specifications of which have been approved by the department of engineering, or any contractor, or agent or employee of such contractor, who shall knowingly permit work to be executed thereon contrary to the plans and specifications approved as aforesaid, or any

inspector or employee of the department of engineering who shall have knowledge of such work being done and fail to immediately notify the department of engineering thereof, is guilty of a felony and subject to the penalty of confinement in the state penitentiary for not less than one nor more than five years.

(e) Upon the complaint of the department of engineering any district attorney is hereby authorized and directed to prosecute violations of the provisions of this section.

7. MISCELLANEOUS PROVISIONS.

A. DRAINAGE BY IRRIGATION DISTRICTS.

An act to provide for drainage by irrigation districts.

(Approved March 18, 1907; Stats. 1907, p. 569.)

District may provide drainage.

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such districts may provide for any and all drainage made necessary by the irrigation provided for by such laws; and the officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such drainage, and the construction, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation, and all laws respecting such irrigation or such irrigation districts shall be so construed, applied and enforced as to apply to such drainage as well as such irrigation.

Duty of directors to provide drainage.

SEC. 2. Whenever it appears necessary, or proper, or beneficial to the lands affected thereby, to drain such lands or any portion thereof on account of the irrigation which has been done, or which is intended to be done under such laws, whether for the purpose of more beneficially carrying on such irrigation, or to protect such districts from liability by reason of such irrigation, whether the irrigation works have already been constructed or not, it shall be the duty of the board of directors to provide for such drainage, and said board and its officers, agents and employees shall do all necessary and proper acts for the construction, repair, maintenance and management of drainage work for such purpose.

Effective, when.

SEC. 3. This act shall take effect immediately.

B. DEVELOPMENT OF ELECTRIC POWER.

An act to provide for the development of electrical power by irrigation districts.

(Approved May 21, 1919, Stats. 1919, p. 778; amended 1921, pp. 829, 1083; 1923, p. 629.)

Irrigation district may develop power.

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may provide for the construction, acquisition, operation, leasing and control of plants for the generation, distribution, sale and lease of electrical energy including sale to municipalities, corporations, public utility districts, or individuals, of electrical power so generated; and said district, subject, however, to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of

the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated. The officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such power and the construction, acquisition, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California irrigation district act shall be so construed, applied and enforced as to apply to such power as well as such irrigation, except that nothing in said act shall be so construed as to prevent the sale of power by any district for use outside of the boundaries of such district or to require the distribution of such power in accordance with any assessments levied by such district. (Stats. 1923, p. 629.)

Powers of board and officers.

SEC. 2. The board of directors of any irrigation district and its officers, agents and employees, shall do all necessary and proper acts for the construction, repair, maintenance, and management of such electrical power works for such purposes.

Issuance of bonds.

SEC. 3. In case funds are not otherwise available an irrigation district may issue bonds for such purpose and all of the provisions of the California irrigation district act, relating to the issuance of bonds for other purposes, and all other acts relative to bonds issued under the California irrigation district act, in so far as the same are applicable to said bonds shall apply. (Stats. 1921, p. 829.)

Repeal.

SEC. 4. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

C. RIGHTS OF WAY FOR POWER LINES.

An act granting to irrigation districts of the State of California the right to construct, operate and maintain electric light and power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume.

(Approved May 25, 1923; Stats. 1923, p. 449.)

SECTION 1. That there is granted to every irrigation district of the State of California the right to construct, operate and maintain electric light and electric power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume which the route of such work intersects, crosses or runs along in such manner as to afford security for life and property, but the irrigation district shall restore the road, street, alley, avenue, highway, railway, canal, ditch or flume thus intersected to its former state of usefulness as near as may be; *provided, however*, that such irrigation district may not use

any street, alley, avenue or highway within any city for such purpose, unless the right so to use the same is granted by a vote of the governing body of such city which shall have the right to impose reasonable conditions upon such use; *provided, also*, that such grant of authority shall not be necessary in any case where the street, alley, avenue or highway, or a portion thereof, proposed to be used for the purpose of constructing, operating or maintaining any such works, or any part thereof, is a necessary or convenient part of the route of such works and at the time construction thereof was commenced, or the plans adopted therefor, was located in territory not then within an organized city.

D. PROTECTION OF CANALS AND WORKS.

PENAL CODE.

SEC. 592. Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating or generation of power, or domestic uses, or who shall without like authority, raise, lower or otherwise disturb any gate or other apparatus thereof, used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir, any rubbish, filth or obstruction to the free flow of the water is guilty of a misdemeanor.

SEC. 607. Every person who willfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed tide or marsh land, or to store or conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or wilfully or maliciously makes, or causes to be made, any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same; or draws up, cuts, or injures any piles fixed in the ground for the purpose of securing any sea-bank, or sea-walls, or any dock, quay, or jetty, lock, or sea wall; or who, between the first day of October and the fifteenth day of April of each year, plows up or loosens the soil in the bed or on the sides of any natural water course or channel, without removing such soil within twenty-four hours from such water course or channel; or who, between the fifteenth day of April and the first day of October of each year, shall plow up or loosen the soil in the bed or on the sides of such natural water course or channel, and shall not remove therefrom the soil so plowed up or loosened before the first day of October next thereafter, is guilty of a misdemeanor and upon conviction, punishable by a fine not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding two years, or by both; *provided*, that nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any such water course, or channel, for the purpose of mining.

E. INJURIES TO HIGHWAYS.

POLITICAL CODE.

SEC. 2737. Whoever obstructs or injures any highway, or diverts any watercourse thereon, or drains water from his land upon any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in section five hundred and eighty-eight of the Penal Code. Any person, persons, or corporation who shall be storing or distributing water for any purpose, and shall permit the water to overflow or saturate, by seepage, any highway, to the injury thereof, shall, upon notification of the road commissioner of the district where such overflow or seepage occurs, repair the damages occasioned by such overflow or seepage; and should such repair not be made within a reasonable time by such person, persons, or corporation, said road commissioner shall make such repairs, and recover the expense thereof from such person, persons, or corporation, in an action at law. All persons excavating irrigation, mining, or draining ditches across public highways shall be required to bridge said ditches at such crossings, and upon neglect to do so, the road commissioner for that road district shall construct the same and recover the cost of constructing said bridge or bridges of such persons by action, as provided in this section; *provided*, that the supervisors of any county may construct and maintain bridges over any and all ditches used exclusively for irrigation purposes, and which cross public highways in the county over which they have authority, and may, with the consent of the owners of such ditches, declare any and all such bridges to be public property, and maintain and keep the same in repair at the expense of such county. And whoever willfully injures any public bridge is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the county in a civil action; *provided further*, that every person who knowingly allows the carcass of any dead animal (which animal belonged to him at the time of its death) to be put or to remain within one hundred feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within one hundred feet of any street, alley, highway, or road in common use, or who shall deposit on any highway any refuse or waste tin, sheet-iron, or broken glass, is guilty of a misdemeanor. (Amended, Stats. 1897, p. 217.)

APPENDIX.

SUPPLEMENTAL LEGISLATION.

There are numerous laws on related subjects which are too voluminous to permit of inclusion in this volume. Reference is hereby made to the *Statutes* where these acts may be found.

Agricultural expert.

Irrigation district may employ. *Statutes* 1913, p. 75.
Assessment book.

County assessor must furnish copy on request of district. *Political Code*, § 3653.
Bonds.

Funding bonds of districts organized under the Act of March 7, 1887. *Statutes* 1897, p. 394; amended 1901, p. 514.

Imperial irrigation district, validation of. *Statutes* 1915, p. 18.

Registration of. *Statutes* 1913, p. 23.

Release of claims on bonds surrendered for cancellation. *Statutes* 1911, p. 1460.

Security for deposit of county or city moneys, irrigation district bonds are. *Statutes* 1923, p. 25.

Security for deposit of state moneys, irrigation district bonds are. *Statutes* 1923, p. 21.

Bonds of irrigation districts are legal investments for:

Banks, Commercial. § 46, Bank Act, *Statutes* 1923, p. 54.

Savings. § 61, Bank Act, *Statutes* 1923, p. 54.

Trust companies. § 96, Bank Act, *Statutes* 1913, p. 179. § 105, Bank Act, *Statutes* 1913, p. 183.

Insurance companies, in general. *Civil Code*, § 421.

Fire insurance, surplus and special reserve funds. § 2, *Statutes* 1917, p. 1379; amended 1923, p. 177.

Fraternal benefit societies. § 10, *Statutes* 1911, p. 1323.

Mortgage insurance. *Civil Code*, § 453ee.

Mutual workmen's compensation. § 14, *Statutes*, 1913, p. 323.

School teachers' permanent fund. *Statutes* 1913, p. 1423; amended 1919, p. 500; 1921, pp. 1638 and 1639.

State compensation insurance fund. *Statutes* 1913, p. 304, § 45.

State school fund. *Political Code*, § 676.

California Irrigation Act. *Statutes* 1919, p. 671. (Unconstitutional, *Mordecai vs. Board of Supervisors*, 183 Cal. 431.)

Canal.

Private right of way for. *Political Code*, § 2692.

Carey act commission act. *Statutes* 1915, p. 1140. See *Political Code* § 363e.

Colorado river.

Approval of Colorado River Compact. *Statutes* 1923, p. 1530.

California representation upon joint committee of western states and federal government. *Statutes* 1921, p. 85.

Commission for controlling, etc. *Statutes* 1923, p. 194.

Committee to negotiate with committees of Arizona and Nevada. *Statutes* 1925, Resolution, ch. 80.

Conservancy districts. *Statutes* 1919, p. 559; amended 1923, p. 13.

Ditch.

Highway crossing. *Political Code*, § 2694.

Joint owners share proportionally the cost of upkeep. *Civil Code*, §§ 842, 843.

Easement.

When right to flow water is. *Civil Code*, § 552.

Eminent domain.

Injunction suit, defendant may convert into condemnation proceedings when water rights involved. *Code of Civil Procedure*, § 534.

Power of by Irrigation Dists. *Code of Civil Procedure*, § 1238.

Rules of pleading and practice in. *Code of Civil Procedure*, §§ 1237-1264.

Valuation by railroad commission. Const. Art. XII, § 23a.

Public Utilities Act, § 47; *Statutes* 1917, p. 261.

Fishways, over or around dams. *Penal Code*, § 637.

Flood, protection by districts having area exceeding 500,000 acres. *Statutes* 1915, p. 1.

Highways, protection from overflow of ditches. *Political Code*, § 2737.

Imperial irrigation district.

Bonds legalized. *Statutes* 1915, p. 18.

Flood protection authorized. *Statutes* 1915, p. 1.

Purchase of California Development Company authorized. *Statutes* 1915, p. 343.

Injunction.

Restraining sale of district or municipal bonds; petitioner, if a competitor, pays all costs if injunction finally denied. *Code of Civil Procedure*, § 526b.

To prevent diversion of water, when issuable. *Code of Civil Procedure*, §§ 530, 532, 534.

Irrigation districts, county.

Validation of. *Statutes* 1915, p. 48.

Mandate.

Ordering delivery of water for irrigation not stayed pending appeal. *Code of Civil Procedure*, § 1110a.

Modesto irrigation district created. *Statutes* 1877-8, p. 820. (Obsolete.)

Municipal utility districts. *Statutes* 1921, p. 245.

Power pumping districts, county. *Statutes* 1915, p. 1483.

Public utility districts. *Statutes* 1913, p. 450. *Statutes* 1915, p. 866; amended 1921, p. 262. *Statutes* 1921, p. 906.

Public works, by day's labor. *Statutes* 1923, p. 1053.

Riparian owners. Liability for cutting of banks. *Political Code*, §§ 3486, 3487.

Santa Clara County irrigation district. *Statutes* 1921, p. 1523. (Not in effect; district electors disapproved organization.) Amended 1923, p. 1215.

Underground storage of water. *Statutes* 1919, p. 826.

Validation of irrigation districts¹.

¹Special validating acts are apparently unconstitutional:

Miller & Lux vs. Supervisors of Madera County, 189 Cal. 254.

Irrigation districts began in 1911 the practice of obtaining special legislative acts of validation. Following are statutory references to such acts:

Anderson-Cottonwood. *Statutes* 1915, p. 74.

Banta-Carbona. *Statutes* 1921, p. 81.

Baxter Creek. *Statutes* 1917, p. 227.

Beaumont. *Statutes* 1921, p. 25.

Butte Valley. *Statutes* 1921, p. 59.

Byron-Bethany. *Statutes* 1921, p. 30.

Carmichael. *Statutes* 1917, p. 12.

Crooks Canyon. *Statutes* 1921, p. 58.

Fair Oaks. *Statutes* 1919, p. 37.

Fall River Valley. *Statutes* 1923, p. 20.

Foothill. *Statutes* 1921, p. 73.

Fresno. *Statutes* 1921, p. 72.

Glenn-Colusa. *Statutes* 1921, p. 64.

Grenada. *Statutes* 1921, p. 72.

Happy Valley. *Statutes* 1917, p. 906

Honent-Yuba. *Statutes* 1921, p. 78.

Hot Spring Valley. *Statutes* 1921, p. 75.

Imperial. *Statutes* 1911 (extra session), p. 119.

Jacinto. *Statutes* 1919, p. 32.

James. *Statutes* 1921, p. 76.

Kasson. *Statutes* 1921, p. 81.

Klamath-Shasta Valley. *Statutes* 1923 p. 193.

Knightsen. *Statutes* 1921, p. 71.

Laguna. *Statutes* 1921, p. 75.

Lakeeland. *Statutes* 1923, p. 437.

La Mesa, Lemon Grove and Spring Valley. *Statutes* 1915, p. 323.

Lemoore. *Statutes* 1921, p. 73.

Lindsay-Strathmore. *Statutes* 1917, p. 15.

Madera. *Statutes* 1921, p. 76.

Medano. *Statutes* 1921, p. 77.

Mendota. *Statutes* 1923, p. 323.

Merced. *Statutes* 1921, p. 80.

Modesto. *Statutes* 1911, p. 262.

Mojave River. *Statutes* 1923, p. 20.

Naglee Burk. *Statutes* 1921 p. 73

Oakdale. *Statutes* 1911, p. 262; 1915, p. 56.

Oroville-Wyandotte. *Statutes* 1921, p. 78.

Owens Valley. *Statutes* 1923, p. 134.

Paradise. *Statutes* 1917, p. 13.

Princeton-Codora-Glenn. *Statutes* 1917, p. 228.

Red Rock Creek. *Statutes* 1919, p. 124; *Statutes* 1923, p. 300.

Riverdale. *Statutes* 1921, p. 75.

San Ysidro. *Statutes* 1913, p. 25.

Scott Valley. *Statutes* 1921, p. 59.

South San Joaquin. *Statutes* 1911, p. 262.

Stinson. *Statutes* 1923, p. 196.

Stratford. *Statutes* 1917, p. 14.

Surprise Valley. *Statutes* 1921, p. 59.

Terra Bella. *Statutes* 1917, p. 14.

Tracy-Clover. *Statutes* 1923, p. 440.

Tranquillity. *Statutes* 1919, p. 124.

Turlock. *Statutes* 1911, p. 261.

Waterford. *Statutes* 1915, p. 1249.

West Side. *Statutes* 1917, p. 15.

West Stanislaus. *Statutes* 1921, p. 30.

Williams. *Statutes* 1921, p. 64.

Water.

Appropriation of. *Civil Code*, §§ 1410-1422; superseded, at least in part, by the Water Commission Act.

Contracts relating to sale and distribution. *Statutes* 1901, p. 331.

Lien of contract to furnish for irrigation. *Statutes* 1923, p. 716.

Miner's inch defined. *Statutes* 1901, p. 660.

Stealing of. *Penal Code*, § 490.

Water companies, cancellation of stock by. *Statutes* 1923, p. 757.

Water districts.

County water district act; districts organized under prior to 1915 validated. *Statutes* 1915, p. 48.

County water works districts. *Statutes* 1913, p. 785; amended 1915, p. 1188.

Bonds of. *Statutes* 1915, p. 1211.

Municipal water districts. *Statutes* 1911, p. 1290; amended Ex. Sess. 1911, p. 92; 1915, p. 921; supplemented 1917, p. 158.

Municipal corporation may transfer works to. *Statutes* 1923, p. 316.

Water pipes.

Injury to. *Penal Code*, § 624.

Water resources of state.

Investigation of conditions and preparation of plans. *Statutes* 1921, p. 1685.

West Side irrigation district.

Created. *Statutes* 1875-6, p. 885; 1877-8, p. 468. (Obsolete.)

Workmen's Compensation Act.

Irrigation district subject to provisions of § 7; *Statutes* 1919, p. 913.

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